California State Board of Education

Meeting Agenda Items for July 18-19, 2012

Vision, Mission, and Goals

California State Board of Education.

VISION

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

MISSION

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

GOALS

1. *Standards.* Adopt and support rigorous academic content and performance standards in the four core subjects for kindergarten and grades 1 through 12.
2. *Achievement.* Ensure that all students are performing at grade level or higher, particularly in reading and math, at the end of each school year, recognizing that a small number of exceptional needs students must be expected, challenged, and assisted to achieve at an individually determined and appropriately high level. Advocate for mandatory intervention for every child not at grade level. Do everything possible to ensure that "the job is done right in the first place".
3. *Assessment.* Maintain policies assuring that all students receive the same nationally normed and standards-based assessments, grades 2 through 11, again recognizing that a small number of exceptional needs students must be separately and individually assessed using appropriate alternative means to determine achievement and progress.

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

Last Reviewed: Friday, August 26, 2011

Bylaws

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

ARTICLE I

Authority

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

ARTICLE II

Powers and Duties

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

ARTICLE III

Members

APPOINTMENT

Section 1.

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

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

TERM OF OFFICE

Section 2.

(a) The term of office of the members of the Board is four years, except for the student member whose term is one year.

(b) Except for the student member, who serves a one-year term, terms expire on January 15 of the fourth year following their commencement. Members, other than the student member, continue to serve until the appointment and qualification of their successors to a maximum of 60 days after the expiration of their terms. If the member is not reappointed and no successor is appointed within that 60-day period, the member may no longer serve and the position is deemed vacant. The term of the student member begins on August 1 and ends on July 31 of the following year.

(c) If the Senate refuses to confirm, the person may continue to serve until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first.

(d) If the Senate fails to confirm within 365 days after the day the person first began performing the duties of the office, the person may not continue to serve in that office following the end of the 365-day period.

EC 33001; 33000.5
GC 1774

VACANCIES

Section 3.

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

EC 33002

STUDENT MEMBER

Section 4.

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

EC 33000.5

COMPENSATION AND EXPENSES

Section 5.

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

EC 33006
GC 11564.5

CONFLICT OF INTEREST CODE

Section 6.

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

2 CCR 18730
5 CCR 18600

ARTICLE IV

Officers and Duties

PRESIDENT, VICE PRESIDENT

Section 1.

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

Section 2.

(a) The president and vice president shall be elected annually in accordance with the procedures set forth in this section.

(b) Prior to the December regular meeting, letters of nomination for the offices of president and vice president for the forthcoming calendar year shall be submitted to the executive director. When a member submits a letter nominating another member for either office, it shall be understood that the member being nominated has been consulted and has agreed to serve if elected. Members interested in serving in either office may nominate themselves.

(c) At a time to be set aside for the purpose by the president at the December meeting, the executive director shall indicate the names placed in nomination in accordance with paragraph (b). The president shall then call for other nominations from the floor, including self-nominations, which shall then be in order and shall not require a second.

(d) From the names placed in nomination at the December meeting, along with any additional nominations from the floor subject to the conditions set forth in this paragraph, a president and a vice president shall be elected at the beginning of the January regular meeting each year, with the newly elected officers assuming office immediately following the election. No member may nominate himself or herself for the office of president or vice president at the January meeting, and any nomination for such office must be seconded if made at the January meeting.

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

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

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

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

EXECUTIVE OFFICER

Section 3.

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

EC 33004

DUTIES OF THE PRESIDENT

Section 4.

The president shall:

- *serve as spokesperson for the Board;*
- *represent the position of the Board to the State Superintendent of Public Instruction;*
- *appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;*
- *serve as ex officio voting member of the Screening Committee and any ad hoc committees, either substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or serving as an additional member with the affected committee's quorum requirement being increased if necessary, provided that in no case shall the service of the president as ex officio voting member increase the total voting membership of a committee to more than five;*
- *preside at all meetings of the Board and follow-up with the assistance of the executive director to see that agreed upon action is implemented;*
- *serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;*

- *serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;*
- *determine priorities for expenditure of Board travel funds;*
- *provide direction for the executive director;*
- *direct staff in preparing agendas for Board meetings in consultation with the other members as permitted by law;*
- *keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues;*
- *and participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation.*

DUTIES OF THE VICE PRESIDENT

Section 5.

The vice president shall:

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

DUTIES OF COMMITTEE CHAIR

Section 6.

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

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

DUTIES LIAISON OR REPRESENTATIVE

Section 7.

A Board member appointed as a liaison or representative shall:

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

DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY

Section 8.

The member shall:

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

ARTICLE V

Meetings

REGULAR MEETINGS

Section 1.

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

EC 33007

SPECIAL MEETINGS

Section 2.

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

OPEN MEETINGS

Section 3.

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

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

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

GC 11120 et seq.

NOTICE OF MEETINGS

Section 4.

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

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

SPECIAL MEETINGS
(ADDITIONAL PROVISIONS)

Section 5.

(a) Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial

hardship on the board or if immediate action is required to protect the public interest.

(b) Notice of special meetings shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting. Notice shall also be provided to all national press wire services. Notice to the general public shall be made by placing it on appropriate electronic bulletin boards if possible.

(c) Upon commencement of a special meeting, the board shall make a finding in open session that giving a 10-day notice prior to the meeting would cause a substantial hardship on the board or that immediate action is required to protect the public interest. The finding shall be adopted by a two-thirds vote of the board or a unanimous vote of those members present if less than two-thirds of the members are present at the meeting.

EC 33008
GC 11125

EMERGENCY MEETINGS

Section 5.

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

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

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

GC 11125.5
EC 33008
EC 33010

CLOSED SESSIONS

Section 6.

Closed sessions shall be held only in accordance with law.

GC 11126

QUORUM

Section 7.

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

EC 33010

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

ORDER OF BUSINESS

Section 8.

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

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

CONSENT CALENDAR

Section 9.

(a) Non-controversial matters and waiver requests meeting established guidelines may be presented to the Board on a consent calendar.

(b) Items may be removed from the consent calendar upon the request of an individual Board member or upon the request of Department staff authorized by the State Superintendent of Public Instruction to submit items for consideration by the Board.

(c) Items removed from the consent calendar shall be referred to a standing committee or shall be considered by the full Board at the direction of the president.

ARTICLE VI

Committees and Representatives

SCREENING COMMITTEES

Section 1.

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

AD HOC COMMITTEES

Section 2.

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

REPRESENTATIVES

Section 3.

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

members the responsibility of representing the Board in ceremonial activities.

ARTICLE VII

Public Hearings: General

SUBJECT OF A PUBLIC HEARING

Section 1.

(a) The Board may hold a public hearing regarding any matter pending before it after giving the notice required by law.

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

5 CCR 18460
EC 33031
GC 11125

COPIES OF STATEMENTS

Section 2.

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

TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY

Section 3.

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

5 CCR 18463
EC 33031

WAIVER BY PRESIDING INDIVIDUAL

Section 4.

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

5 CCR 18464
EC 33031

ARTICLE VIII

Public Hearings: School District Reorganization

SUBMISSION OF PROPOSALS AND PETITIONS

Section 1.

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

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

CCR 18570

ARGUMENTS BEFORE THE BOARD: ORIGINAL SUBMISSION

Section 2.

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

CCR 18571

RESUBMISSION OF THE SAME OR AN ESSENTIALLY IDENTICAL PROPOSAL OR PETITION

Section 3.

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

CCR 18572

STATEMENTS

Section 4.

All statements are requested to be submitted to the Board (or to staff if so directed by the Board) in advance of the presentation. Statements are requested to be in writing and should only be summarized in oral testimony.

ARTICLE IX

Public Records

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

GC 6250 et seq

ARTICLE X

Parliamentary Authority

RULES OF ORDER

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

ARTICLE XI

Board Appointments

ADVISORY BODIES

Section 1.

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

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

EC 33590

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

EC 33530

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

EC 49533

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

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

OTHER APPOINTMENTS

Section 2.

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

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

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

JPA-FWL

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

EC 8952.5

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

EC 52058.1

SCREENING AND APPOINTMENT

Section 3.

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

ARTICLE XII

Presidential Appointments

LIAISONS

Section 1.

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

(a) The Advisory Commission on Special Education;

(b) The Curriculum Development and Supplemental Materials Commission;

(c) The National Association of State Boards of Education, if the Board participates in that organization.

(d) The Commission on Teacher Credentialing.

(e) The California Postsecondary Education Commission: one member to serve as the president's designee if the president so chooses, recognizing that no person employed full-time by any institution of public or private postsecondary education may serve on the commission.

EC 66901(d) and (h)

OTHER

Section 2.

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

ARTICLE XIII

Amendment to the Bylaws

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

Abbreviations

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

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

Dates of Adoption and Amendment

Status	Date
Adopted	April 12, 1985
Amended	February 11, 1987
Amended	December 11, 1987

Amended	November 11, 1988
Amended	December 8, 1989
Amended	December 13, 1991
Amended	November 13, 1992
Amended	February 11, 1993
Amended	June 11, 1993
Amended	May 12, 1995
Amended	January 8, 1998
Amended	April 11, 2001
Amended	July 9, 2003

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

Last Reviewed: Friday, December 23, 2011

SBE Agenda for July 2012

Agenda for the California State Board of Education (SBE) meeting on July 18 and 19, 2012.

State Board Members

Michael W. Kirst, President
Trish Williams, Vice President

Carl Cohn
Bruce Holaday
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus
Caitlin Snell, Student Member
Vacancy
Vacancy

Secretary & Executive Officer

Hon. Tom Torlakson

Executive Director

Susan K. Burr

Schedule of Meeting	Location
Wednesday, July 18, 2012 8:30 a.m. Pacific Time ± STATE BOARD OF EDUCATION **Public Session**	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 95814 916-319-0827

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

CLOSED SESSION AGENDA

Conference with Legal Counsel – Existing Litigation: Under *Government Code* sections 11126(e)(1) and (e)(2)(A), the State Board of Education hereby provides public notice that some or all of the pending litigation which follows will be considered and acted upon in closed session:

- *Alejo, et al. v. Jack O'Connell, State Board of Education, et al.,* San Francisco County Superior Court, Case No. CPF-09-509568 CA Ct. of Appeal, 2nd Dist., Case No. A130721
- *California School Boards Association, et al. v. California State Board of Education* and *Aspire Public Schools, Inc.,* Alameda County Superior Court, Case No. 07353566, CA Ct. of Appeal, 1st Dist., Case No. A122485, CA Supreme Court, Case No. S186129
- *California School Boards Association and its Education Legal Alliance, et al. v. The California State Board of Education, et al.*, Sacramento County Superior Court, Case No. 34-2008-00021188-CU-MC-GDS, CA Ct. of Appeal, 3rd Dist., Case No. No. C060957
- *Doe et al. v. State of California, Tom Torlakson, the California Department of Education, the State Board of Education, Dinuba Unified School District,* Sacramento County Superior Court, Case No. 34-2012-80001164
- *Doe, Jane, and Jason Roe v. State of California*, *Tom Torlakson, the California Department of Education, the State Board of Education*, Los Angeles Superior Court, Case No. BC445151

- *Emma C., et al. v. Delaine Eastin, et al.*, USDC (No.Dist.CA), Case No. C-96-4179
- *EMS-BP, LLC, Options for Youth Burbank, Inc., et al. v. California Department of Education, et al.*, Sacramento County Superior Court, Case No. 03CS01078 and 03CS01079 and related appeal
- *Graham et al. v the State Board of Education, the California Department of Education, Jack O'Connell, Fred Balcom, Tom Torlakson,* Los Angeles County Superior Court, Case No. BC482694
- *K.C. et al. v. Jack O'Connell, et al*., U.S. District Court, Northern District of California, Case No. C054077 MMC
- *Options for Youth-Victor Valley, et al. v. California Department of Education, et al.*, Los Angeles County Superior Court, Case No. BC347454
- *Options for Youth, Burbank, Inc., San Gabriel, Inc. Upland, Inc. and Victor Valley*, Notice of Appeal Before the Education Audit Appeals Panel, OAH Case No. 2006100966
- *Opportunity for Learning – PB, LLC; Opportunities Learning – C, LLC, and Opportunities for Learning WSH, LLC*, Notice of Appeal Before the Audit Appeals Panel
- *Porter, et al.,* v. *Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Perris Union High School District v. California State Board of Education, California Department of Education, et al.*, Riverside County Superior Court, Case No. RIC520862
- *Reed v. State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O'Connell, California Department of Education,* and *State Board of Education, et al.*,

  Los Angeles County Superior Court, Case No. BC432420, CA Ct. of Appeal, 2nd Dist., Case No. B230817, CA Supreme Ct., Case No. 5191256
- *Today's Fresh Start, Inc. v. Los Angeles County Office of Education, et al.*, Los Angeles County Superior Court, Case No. BS112656, CA Ct. of Appeal, 2nd Dist., Case Nos. B212966
- *Vergara et al. v. State of California, Governor Edmund G. Brown, Tom Torlakson, the California Department of Education, the State Board of Education,* Los Angeles County Superior Court, Case No. BC484642

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

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

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

Schedule of Meeting	Location
Thursday, July 19, 2012 8:30 a.m. Pacific Time ± STATE BOARD OF EDUCATION **Closed Session -- IF NECESSARY --** will take place at approximately 8:30 a.m. (The public may not attend.)	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 95814 916-319-0827

Schedule of Meeting	Location
Thursday, July 19, 2012 8:30 a.m. Pacific Time ±	**California Department of Education** 1430 N Street, Room 1101

(Upon Adjournment of Closed Session, if held.) STATE BOARD OF EDUCATION **Public Session**	Sacramento, California 95814 916-319-0827

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

ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY

ALL ITEMS MAY BE RE-ORDERED TO BE HEARD ON ANY DAY OF THE NOTICED MEETING

THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

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

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

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

CALIFORNIA STATE BOARD OF EDUCATION

FULL BOARD AGENDA
Public Session

July 18, 2012

Wednesday, July 18, 2012 – 8:30 a.m. Pacific Time ±
California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

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

AGENDA ITEMS

Item 1 (DOC)

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

Type of Action: Action, Information

Item 2 (DOC)

Subject: *Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve*, 2013 Revision: Approval of Curriculum Framework and Evaluation Criteria Committee Guidelines and Appointment of Members of the Curriculum Framework and Evaluation Criteria Committee. The *Mathematics Focus Group Report* will also be discussed.

Type of Action: Action, Information

Item 3 (DOC)

Subject: Update on the Activities of the California Department of Education Regarding the Development of the English Language Development Standards for California Public Schools, Kindergarten through Grade Twelve.

Type of Action: Action, Information

Item 4 (DOC)

Subject: Update on the Activities of the California Department of Education Regarding the Development of the Superintendent's Recommendations on the Future Assessment System in California, Including, but Not Limited to, the Specific Categories of Measurement and Content and Design.

Type of Action: Action, Information

Item 5 (DOC)

Subject: A Conversation about the Future of Accountability in California: The School Accountability Report Card, Including Approval of the 2011–12 Template.

Type of Action: Action, Information

***** PUBLIC HEARING *****

A Public Hearing on the following agenda item will commence no earlier than 10:00 a.m. on Wednesday, July 18, 2012. The Public Hearing will be held as close to 10:00 a.m. as the business of the State Board permits.

Item 6 (DOC)

Subject: Standardized Testing and Reporting Program: Adoption of Standards-based Tests in Spanish Performance Levels for Reading Language Arts in Grades Eight, Nine, Ten, Eleven, and for Algebra I and Geometry.

Type of Action: Action, Information, Hearing

***** END OF PUBLIC HEARING *****

Item 7 (DOC)

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

Type of Action: Action, Information

Item 8 (DOC; 2MB)

Subject: Elementary and Secondary Education Act: School Improvement Grant: Approval of Renewal of Funding for Year 3 of Cohort 1 Local Educational Agencies and Schools for the Sub-Grants Under Section 1003(g); Request a Waiver Under Title I, Part A Section 9401 to Carry Over 100 Percent of the Fiscal Year 2011 School Improvement Grant Allocation.

Type of Action: Action, Information

- Item 8 Attachment 2 (PDF)
- Item 8 Attachment 3 (PDF)

Item 9 (DOC)

Subject: Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2012–14 State Board of Education-Approved Supplemental Educational Services Provider List Based on Appeal; and the Conditional Approval of Local Educational Agencies Identified for Improvement Based on a Waiver Request Under Title I, Part A Section 9401 of the Elementary and Secondary Education Act.

Type of Action: Action, Information

Item 10 (DOC)

Subject: Elementary and Secondary Education Act: Approve Proposed Changes to the Governing Policy of the Title I Committee of Practitioners and Appoint Members to the Title I Committee of Practitioners.

Type of Action: Action, Information

Item 11 (DOC; 1MB)

Subject: Administration of Epilepsy Medication—Approve Commencement of a 15-Day Public Comment Period for Proposed Amendments to the *California Code of Regulations*, Title 5, Sections 620–627.

Type of Action: Action, Information

- Item 11 Attachment 4 (PDF; 1MB)
- Accessible Alternative Version of Item 11 Attachment 4
- Item 11 Attachment 5 (PDF)

***** PUBLIC HEARING *****

A Public Hearing on the following agenda item will commence no earlier than 2:00 p.m. on Wednesday, July 18, 2012. The Public Hearing will be held as close to 2:00 p.m. as the business of the State Board permits.

Item 12 (DOC; Posted 11-Jul-2012)

Subject: Doris Topsy-Elvord Academy: Consider Issuing a Notice of Intent to Revoke Pursuant to California *Education Code* Section 47607(e).

Type of Action: Action, Information, Hearing

- Item 12 Attachment 2 (PDF; 4MB)
- Item 12 Attachment 4 (XLS)
- Item 12 Attachment 7 (PDF; 1MB)
- Item 12 Attachment 8 (PDF; 1MB)

***** END OF PUBLIC HEARING *****

*** WAIVERS ***

WAIVERS / ACTION AND CONSENT ITEMS

The following agenda items include waivers that are proposed for consent and those waivers scheduled for separate action because CDE staff has identified possible opposition, recommended denial, or determined may present new or unusual issues that should be considered by the State Board. Waivers proposed for consent are so indicated on each waiver's agenda item; however, any board member may remove a waiver from proposed consent and the item may be heard individually. On a case-by-case basis, public testimony may be considered regarding the item, subject to the limits set by the Board President or by the President's designee; and action different from that recommended by CDE staff may be taken.

CHARTER SCHOOL PROGRAM (Attendance Accounting for Multi-Track)

Item W-1 (DOC)

Subject: Request by two school districts to waive portions of *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school.

Waiver Numbers:

- Moorpark Unified School District 46-3-2012
- San Bernardino City Unified School District 138-2-2012

(Recommended for APPROVAL WITH CONDITIONS)

INDEPENDENT STUDY PROGRAM (Pupil Teacher Ratio)

Item W-2 (DOC)

Subject: Request by two local educational agencies to waive portions of California *Education Code* Section 51745.6 and *California Code of Regulations*, Title 5 Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios.

Waiver Numbers:

- Kingsburg Elementary Charter School District 140-2-2012
- Ripon Unified School District 22-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

OPEN ENROLLMENT (Removal From the List of LEAs)

Item W-3 (DOC)

Subject: Request by one local educational agency to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove their schools from the Open Enrollment List of “low-achieving schools” for the 2012–13 school year.

Waiver Numbers:

- Upland Unified School District 11-5-2012
- Upland Unified School District 23-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

OPEN ENROLLMENT (Removal From the List of LEAs)

Item W-4 (DOC)

Subject: Request by Covina-Valley Unified School District local educational agency to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove their school from the Open Enrollment List of “low-achieving schools” for the 2012–13 school year.

Waiver Number: 49-3-2012

(Recommended for APPROVAL WITH CONDITIONS)

OPEN ENROLLMENT (Removal From the List of LEAs)

Item W-5 (DOC)

Subject: Request by Linden Unified School District to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove Glenwood Elementary School from the Open Enrollment List of “low-achieving schools” for the 2012–13 school year.

Waiver Number: 22-1-2012

(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Algebra I Requirement for Graduation)

Item W-6 (DOC)

Subject: Request by San Lorenzo Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2011−12 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.

Waiver Number: 4-5-2012

(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)

Item W-7 (DOC)

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

Waiver Numbers:

- Hemet Unified School District 15-4-2012
- Imperial County Office of Education 39-4-2012
- Imperial County Office of Education 40-4-2012
- Shasta County Office of Education 52-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Extended School Year [Summer School])

Item W-8 (DOC)

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

Waiver Numbers:

- Mariposa County Office of Education 47-3-2012
- Shasta Union High School District 43-3-2012
- Upland Unified School District 39-3-2012

(Recommended for APPROVAL WITH CONDITIONS)

STATE TESTING APPORTIONMENT REPORT (CELDT)

Item W-9 (DOC)

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

Waiver Numbers:

- Chaffey Joint Union High School District 19-4-2012
- Etiwanda Elementary School District 2-4-2012
- Hope Elementary School District 50-3-2012
- Jefferson Union High School District 38-3-2012

- Live Oak Elementary School District 35-3-2012
- Oakland Unified School District 48-3-2012
- Terra Bella Union Elementary School District 21-3-2012
- Washington Colony Elementary School District 26-4-2012

(Recommended for APPROVAL)

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities)

Item W-10 (DOC)

Subject: Request by three districts, under the authority of California *Education Code* Section 33050, to waive portions of *Education Code* Sections 48660 and 48916.1(d) relating to the allowable grade spans for community day schools and/or *Education Code* Section 48661 relating to the colocation of a community day school with other types of schools.

Waiver Numbers:

- Calaveras Unified School District 25-4-2012
- Firebaugh-Las Deltas Unified School District 20-3-2012
- Hacienda La Puente Unified School District 45-3-2012

(Recommended for APPROVAL/APPROVAL WITH CONDITIONS)

INSTRUCTIONAL TIME REQUIREMENT AUDIT PENALTY (Below 1982-83 Base Minimum Minutes)

Item W-11 (DOC)

Subject: Request by Klamath-Trinity Joint Unified School District under the authority of California *Education Code* Section 46206 to waive *Education Code* Section 46201(d) the audit penalty for offering less instructional time in the 2010–11 fiscal year for students in K–3 (shortfall of 135 minutes per grade).

Waiver Number: 32-3-2012

(Recommended for APPROVAL WITH CONDITIONS)

OUT-OF-STATE USE OF FUNDS AND TRANSPORTATION ALLOWANCES

Item W-12 (DOC)

Subject: Request by two school districts to waive a portion of California *Education Code* Section 35330(b)(3) to authorize expenditures of school district funds for students to travel to Oregon to attend curricular and extracurricular trips/events.

Waiver Numbers:

- Mt. Shasta Union Elementary School District 18-3-2012
- Weed Union Elementary School District 10-3-2012

(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply

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SALE OR LEASE OF SURPLUS PROPERTY (Lease of Surplus Property)

Item W-13 (DOC)

Subject: Request by Coachella Valley Unified School District to waive portions of California *Education Code* Sections 17455, 17466, 17468, 17469, 17470, 17472, 17475, and all of Sections 17473 and 17474, specific statutory provision for the sale of surplus property. Approval of the waiver would allow the district to sell a piece of property using a “request for proposal” process, thereby maximizing the proceeds from the sale of the Oasis School Site.

Waiver Number: 184-2-2012

(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL CONSTRUCTION BONDS (Bond Indebtedness)

Item W-14 (DOC)

Subject: Request by two districts to waive one or more of the following California *Education Code* sections related to bonded indebtedness limits: Sections 15102, 15106, 15268, and 15270(a). Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts or 2.5 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for high school and elementary school districts or $60 per $100,000 for unified districts, may also apply.

Waiver Numbers:

- Pittsburg Unified School District 168-2-2012
- Savanna Elementary School District 132-2-2012

(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL CONSTRUCTION BONDS (Citizens Oversight Committee - Term Limits)

Item W-15 (DOC)

Subject: Request by Saddleback Valley Unified School District, to waive portions of California *Education Code* Section 15282, relating to term limits for members of a Citizens' Oversight Committee for all construction bonds in the district.

Waiver Numbers:

- Saddleback Valley Unified School District, 11-4-2012 (Renewal)
- Saddleback Valley Unified School District, 12-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL DISTRICT REORGANIZATION (Election of Governing Board)

Item W-16 (DOC)

Subject: Request by Bonsall Union Elementary School District to waive portions of California *Education Code* Section 35100 and all of 35101, to allow for the appointment of an interim board to serve the newly unified district prior to election of a new governing board.

Waiver Number: 8-5-2012

(Recommended for APPROVAL)

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)

Item W-17 (DOC)

Subject: Request by four districts to waive California *Education Code* Section 5020, and portions of Sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.

Waiver Numbers:

- Exeter Union School District 13-5-2012
- Exeter Union High School District 12-5-2012
- Sunnyside Union Elementary 4-4-2012
- Washington Colony Elementary 7-3-2012

(Recommended for APPROVAL)

SCHOOL DISTRICT REORGANIZATION (Lapsation of a Small District)

Item W-18 (DOC)

Subject: Request by Blake Elementary School District to waive California *Education Code* Section 35780(a), which requires lapsation of a district with an average daily attendance of less than six.

Waiver Number: 23-3-2012

(Recommended for APPROVAL)

- Item W-18 Attachment 2 (PDF)

SCHOOL SAFETY AND VIOLENCE PREVENTION (School Safety and Violence Prevention)

Item W-19 (DOC)

Subject: Request by Stockton Unified School District to waive portions of California *Education Code* Sections 45127, 45128, and 45132 to allow the school police officer dispatchers to work 12-hour per day shifts, three days per week, and work an 8-hour day every other week, to constitute eighty hours in a two-week period, without requiring overtime pay.

Waiver Number: 19-5-2012

(Recommended for APPROVAL)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)

Item W-20 (DOC)

Subject: Request by thirteen local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

Waiver Numbers:

- Dunsmuir Joint Union High 19-3-2012
- Eureka City Schools 52-3-2012
- Garfield Elementary 62-1-2012
- Lagunitas Elementary 36-4-2012
- Mendocino County Office of Education 42-3-2012
- Mountain Empire Unified 29-3-2012
- Orick Elementary 31-3-2012
- Placer Union High 17-3-2012
- Salinas Union High 51-3-2012
- Santa Barbara County Office of Education 7-4-2012
- Southern Trinity Joint Unified 24-4-2012
- Temple City Unified 18-1-2012
- Yosemite Unified 16-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

KINDERGARTEN (Transitional Kindergarten program)

Item W-21 (DOC)

Subject: Request by San Jacinto Unified School District on behalf of San Jacinto Valley Academy Charter School for a waiver of California *Education Code* Section 48000(c) and (d) relating to the requirement to offer transitional kindergarten for the 2012–13 school year. State law requires each elementary or unified school district to offer transitional kindergarten to all eligible students.

Waiver Number: 44-3-2012

(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)

Item W-22 (DOC)

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

Waiver Number: 22-3-2012

(Recommended for DENIAL)

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)

Item W-23 (DOC)

Subject: Request by the Shasta County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Diana Davis to continue to provide services to students until June 30, 2013, under a remediation plan to complete those minimum qualifications.

Waiver Number: 49-4-2012

(Recommended for DENIAL)

KINDERGARTEN (Transitional Kindergarten program)

Item W-24 (DOC)

Subject: Request by nine districts to waive portions of California *Education Code* Sections 46300(g) and 48000(c) and (d) relating to transitional kindergarten for the 2012–13 school year. State law requires each elementary or unified school district to offer transitional kindergarten to all eligible students.

Waiver Numbers:

- Beaumont Unified School District 3-3-2012
- Hemet Unified School District 64-1-2012
- Lake Elsinore Unified School District 82-1-2012
- Menifee Union Elementary School District 88-1-2012
- Moreno Valley Unified School District 43-4-2012
- Perris Elementary School District 10-4-2012
- San Jacinto Unified School District 6-3-2012
- Temecula Valley Unified School District 153-2-2012
- Val Verde Unified School District 8-4-2012

(Recommended for DENIAL)

OTHER WAIVERS (Other Waivers)

Item W-25 (DOC)

Subject: Request by Mt. Diablo Unified School District to waive California *Education Code* Section 47660 regarding the impact of Clayton Valley Charter High School Funding.

Waiver Number: 136-2-2012

(Recommended for DENIAL)

CLASS SIZE PENALTIES (Over Limit on Grades 1-3)

Item W-26 (DOC)

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

overall class size average is 30 to one with no class larger than 32.

Waiver Numbers:

- Helendale Elementary School District 27-3-2012
- Little Lake City Elementary School District 41-4-2012
- Tustin Unified School District 3-5-2012

(Recommended for APPROVAL WITH CONDITIONS)

CLASS SIZE PENALTIES (Over Limit on Grades 1-3)

Item W-27 (DOC)

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

Waiver Numbers:

- Bear Valley Unified School District 30-4-2012
- Capistrano Unified School District 15-3-2012
- Cloverdale Unified School District 37-4-2012
- Hollister School District 5-3-2012
- Jamul Dulzura Union Elementary School District 33-3-2012
- Lowell Joint School District 5-4-2012
- Murrieta Valley Unified School District 44-4-2012
- Oceanside Unified School District 55-3-2012
- Paso Robles Joint Unified Elementary School District 53-3-2012
- Santa Rita Union Elementary School District 35-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

CLASS SIZE PENALTIES (Over Limit on Grades 4-8)

Item W-28 (DOC)

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

Waiver Numbers:

- Brea-Olinda Unified School District; 21-4-2012
- Helendale Elementary School District; 28-3-2012
- Little Lake City Elementary School District; 42-4-2012
- Tustin Unified School District; 2-5-2012

(Recommended for APPROVAL WITH CONDITIONS)

CLASS SIZE PENALTIES (Over Limit on Grades 4-8)

Item W-29 (DOC)

Subject: Request by 12 districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

Waiver Numbers:

- Bear Valley Unified School District 31-4-2012
- El Segundo Unified School District 6-5-2012

- Hollister School District 4-3-2012
- Huntington Beach City Elementary School District 17-4-2012
- Jamul Dulzura Union Elementary School District 34-3-2012
- Manteca Unified School District 9-4-2012
- Murrieta Valley Unified School District 46-4-2012
- Oceanside Unified School District 56-3-2012
- Paso Robles Joint Unified School District 54-3-2012
- Saddleback Valley Unified School District 3-4-2012
- Salinas City Elementary School District 25-3-2012
- Santa Rita Union Elementary School District 34-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)

Item W-30 (DOC)

Subject: Request by ten local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Numbers:

- Alum Rock Union Elementary School District 13-4-2012
- Alum Rock Union Elementary School District 14-4-2012
- Lake Tahoe Unified School District 41-3-2012
- Oakland Unified School District 20-4-2012
- Pasadena Unified School District 47-4-2012
- Pasadena Unified School District 48-4-2012
- Pierce Joint Unified School District 1-3-2012
- Redding Elementary School District 18-4-2012
- Yuba City Unified School District 28-4-2012
- Yuba City Unified School District 29-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Highly Qualified Teachers)

Item W-31 (DOC)

Subject: Request by Madera Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding Highly Qualified Teachers and/or the Williams case settlement requirements under the Quality Education Investment Act.

Waiver Number: 51-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Money to Follow Identified Students)

Item W-32 (DOC)

Subject: Request by Farmersville Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Farmersville Junior High School to follow its grade six class that will be transferring to Freedom Elementary School.

Waiver Number: 149-2-2012

(Recommended for DENIAL)

QUALITY EDUCATION INVESTMENT ACT

Item W-33 (DOC)

Subject: Request by Santa Rita Union Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Number: 33-4-2012

(Recommended for DENIAL)

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)

Item W-34 (DOC)

Subject: Request by two local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Numbers:

- Pasadena Unified School District 47-4-2012
- Pasadena Unified School District 48-4-2012
- Yuba City Unified School District 28-4-2012

(Recommended for APPROVAL WITH CONDITIONS)

***** END OF WAIVERS *****

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

Public Session

July 19, 2012

Thursday, July 19, 2012 – 8:30 a.m. Pacific Time ±
California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

REPORT OF THE STATE SUPERINTENDENT

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

The Closed Session (1) may commence earlier than 8:30 a.m.; (2) may begin at or before 8:30 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:30 a.m.

AGENDA ITEMS

Item 13 (DOC)

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

Type of Action: Action, Information

- Item 13 Attachment 1 (DOC)

- Item 13 Attachment 3 (DOC)

Item 14 (DOC)

Subject: Public Charter Schools Grant Program: Update, Regarding Assurances 3A and 3B.

Type of Action: Action, Information

- Item 14 Attachment 2 (PDF)

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

Public Hearings on the following agenda items will commence no earlier than 10:00 a.m. on Thursday, July 19, 2012. The Public Hearings will be held as close to 10:00 a.m. as the business of the State Board permits.

Item 15 (DOC)

Subject: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Hold a Public Hearing to Consider Portola Academy, which was denied by the Livermore Valley Joint Unified School District Board of Education and the Alameda County Board of Education.

Type of Action: Action, Information, Hearing

Item 16 (DOC)

Subject: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Hold a Public Hearing to Consider the Schools and Communities for Advanced Learning Experience Charter Petition, which was denied by the Rialto Unified School District Board of Education and the San Bernardino County Board of Education.

Type of Action: Action, Information, Hearing

Item 17 (DOC; Posted 11-Jul-2012)

Subject: Long Valley Charter School: Hold a Public Hearing to Consider a Material Revision of the Charter.

Type of Action: Action, Information, Hearing

- Item 17 Attachment 1 (PDF; 22MB)

Item 18 (DOC; Posted 11-Jul-2012)

Subject: Long Valley Charter School: Consider Issuing a Notice of Violation Pursuant to California Education Code Section 47607(d).

Type of Action: Action, Information, Hearing

Item 19 (DOC; Posted 11-Jul-2012)

Subject: Doris Topsy-Elvord Academy: Hold a Public Hearing and Consider Revocation Pursuant to California Education Code Section 47607(e).

Type of Action: Action, Information, Hearing

Item 20 (DOC; Posted 10-Jul-2012)

Subject: Environmental Effect of the proposed Formation of the Bonsall Unified School District from the Bonsall Unified School District and that portion of the Fallbrook Union High School District in San Diego County.

Type of Action: Action, Information, Hearing

Item 20 Attachment 2 (PDF)

Item 21 (DOC; 10MB)

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

Type of Action: Action, Information, Hearing

Item 22 (DOC; 2MB)

Subject: Appeal of a decision by the Santa Clara County Committee on School District Organization to Approve a Petition to Transfer Territory from the Lakeside Joint Elementary School District to the Loma Prieta Joint Union Elementary School District in Santa Clara County.

Type of Action: Action, Information, Hearing

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

Item 23 (DOC)

Subject: PUBLIC COMMENT.
Public Comment is invited on any matter not included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

Type of Action: Information

Item 24 (DOC)

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

Type of Action: Action, Information

Item 25 (DOC)

Subject: Approval of 2011-12 Consolidated Applications.

Type of Action: Action, Information

Item 26 (DOC)

Subject: Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2.

Type of Action: Action, Information

Item 27 (DOC)

Subject: Consideration of Requests for Determination of Funding for Prior Years as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and *California Code of Regulations*, Title 5, Section 11963.4(c).

Type of Action: Action, Information

Item 28 (DOC)

Subject: Assignment of Numbers for Charter School Petitions.

Type of Action: Action, Information

Item 29 (DOC)

Subject: California High School Exit Examination Alternative Means: Adopt Amendments to the *California Code of Regulations*, Title 5, Section 1216.1.

Type of Action: Action, Information

- Item 29 Attachment 3 (PDF)
- Accessible Alternative Version of Item 29 Attachment 3

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

This agenda is posted on the State Board of Education's Web site [http://www.cde.ca.gov/be/ag/]. For more information concerning this agenda, please contact the State Board of Education at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone 916-319-0827; facsimile 916-319-0175. Members of the public wishing to send written comments about an agenda item to the board are encouraged to send an electronic copy to SBE@cde.ca.gov, with the item number clearly marked in the subject line. In order to ensure that comments are received by board members in advance of the meeting, materials must be received by 12:00 p.m. on the Monday before the meeting.

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

Last Reviewed: Wednesday, July 11, 2012

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 1

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of Common Core State Standards Systems.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

This agenda item is the seventh in a series of regular updates to inform the State Board of Education (SBE) and public regarding Common Core State Standards (CCSS) systems implementation activities.

RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE take action as deemed necessary and appropriate but recommends no specific action at this time.

BRIEF HISTORY OF KEY ISSUES

When the SBE adopted the CCSS with additions in 2010, these standards became the current subject-matter standards in English language arts and mathematics. The full implementation of these standards will occur over several years as a new system of CCSS-aligned curriculum, instruction, and assessment is developed.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

May 2012: The CDE presented to the SBE the sixth in a series of updates on the implementation of the CCSS.

March 2012: The SBE unanimously voted to present, in partnership with the SSPI, the CCSS Systems Implementation Plan for California to the Governor and the California

SUMMARY OF PREVIOUS (Con't.)

State Legislature thereby fulfilling the requirements of California *Education Code* Section 60605.8 (h).

January 2012: The CDE presented to the SBE the fourth in a series of updates on the implementation of the CCSS.

November 2011: The CDE presented to the SBE the third in a series of updates on the implementation of the CCSS.

September 2011: The CDE presented to the SBE the second in a series of updates on the implementation of the CCSS.

July 2011: The CDE presented to the SBE the first in a series of updates on the implementation of the CCSS.

June 2011: Governor Edmund G. Brown, Jr., SSPI Tom Torlakson, and SBE President Michael Kirst signed the memorandum of understanding for California's participation as a governing state in the SMARTER Balanced Assessment Consortium (SBAC). California was previously a participating state in the Partnership for the Assessment of Readiness for College and Careers (PARCC).

November 2010: The CDE presented to the SBE an update on the implementation of the CCSS. This update was provided at the joint meeting between the SBE and the Commission on Teacher Credentialing (See agenda at http://www.cde.ca.gov/be/pn/pn/ctcsbeagenda08nov2010.asp).

August 2010: Pursuant to Senate Bill X5 1, the SBE adopted the academic content standards in English language arts and mathematics as proposed by the California Academic Content Standards Commission (ACSC); the standards include the CCSS and specific additional standards that the ACSC had deemed necessary to maintain the integrity and rigor of California's already high standards.

May 2009: The SSPI, the Governor of California, and the SBE President agreed to participate in the Council of Chief State School Officers and the National Governors Association Center for Best Practices initiative to develop the CCSS as part of California's application to the federal Race to the Top grant.

FISCAL ANALYSIS (AS APPROPRIATE)

The cost of implementing the CCSS is significant, but will be offset by the improved efficiencies, benefits of shared costs with other states, and the shifting of current costs to CCSS activities. Currently, the CDE is providing free professional learning support via webinars and presentations and is providing ongoing guidance to the field for

FISCAL ANALYSIS (AS APPROPRIATE) (Con't.)

transitioning to the CCSS. In terms of instructional materials, costs will span multiple years but will be offset by access to a national market of materials and greater price competition in so long as California does not add state-specific evaluation criteria. Nonetheless, the implementation of new CCSS-aligned assessments, professional learning supports, and instructional materials will require a shifting and infusion of new resources.

ATTACHMENT(S)

Attachment 1: Common Core State Standards Systems Implementation Plan Highlights: May–July 2012 (3 pages)

Attachment 2: CCSS Implementation Outreach Activities (1 page)

Common Core State Standards Systems Implementation Plan Highlights: May–July 2012

1. Facilitate high quality professional learning opportunities for educators to ensure that every student has access to teachers who are prepared to teach to the levels of rigor and depth required by the CCSS.

- A new online resource to help teachers, administrators, and parents transition to the Common Core State Standards (CCSS) has been released. *A Look at Grades Seven and Eight in California Public Schools: Transitioning to the Common Core State Standards in English Language Arts and Mathematics* includes grade-level chapters with insightful narratives and the content standards, as well as information and links to information about instructional resources, assessment, and universal access. This online document continues the guidance provided for earlier grades in the publication, *A Look at Kindergarten Through Grade Six in California Public Schools*. To access the new resource, visit the CDE CCSS Resources Web Page at www.cde.ca.gov/ci/cr/cf/grlevelcurriculum.asp.

2. Provide CCSS-aligned instructional resources designed to meet the diverse needs of all students.

- Publisher interest in the 2012 Supplemental Instructional Materials Review has exceeded expectations. Publishers submitted 41 mathematics and 33 English language arts supplemental programs by the May 16, 2012 submission deadline. The reviewers approved by the State Board of Education (SBE) at its March 2012 meeting were trained in the evaluation criteria at meetings held at two county offices of education in late June. The reviewers will conduct independent reviews of the materials over several months, before reconvening in panels for deliberations in September. We anticipate the SBE taking final action on the recommended materials at its November 2012 or January 2013 meetings.

- The process to update the English Language Arts/English Language Development (ELA/ELD) Framework is underway. At its May 9 meeting, the SBE approved the timeline for the revision of the 2014 ELA/ELD Framework and the Curriculum Framework and Evaluation Criteria Committee (CFCC) application. One of the first steps in the process finished in June - four focus group meetings were held throughout the state. Feedback from the focus group members and other stakeholders focused on discussion questions and will help guide the CFCC and framework writers.

- The next step in the timeline is the recruitment of applicants to the serve as CFCC members. The CFCC application and the Superintendent's invitation letter, along with the timeline and general framework development process, is posted on the CDE English Language Arts Curriculum Framework Web page at http://www.cde.ca.gov/ci/rl/cf/. The deadline to submit a CFCC application is August 16, 2012. In September, the Instructional Quality Commission will review the guidance for development of the framework and make CFCC applicant recommendations. The guidance and CFCC recommendations will be forwarded to the November 2012 SBE meeting.

- Facilitated by Achieve, Inc., Educators Evaluating Quality Instructional Products (EQuIP) is a collaborative of states that are focused on increasing the supply of quality instructional materials that are aligned to the CCSS. EQuIP teams are learning how to use tools and processes to review the quality of materials and will ultimately take the tools, training, and processes back to their states to increase the capacity of their teachers and districts to identify quality instructional materials, including online educational resources. In May, a team comprised of California Department of Education (CDE) staff and content experts from California institutions of higher education and local educational agencies participated in an EQuIP meeting to pilot the Tri-State (New York/Rhode Island/Massachusetts) Rubric for assessing CCSS-aligned classroom lessons and units and provide feedback to the development team. It is anticipated that this work will continue in additional meetings scheduled for Fall 2012 and Winter 2013.

- An update regarding the revision of the Mathematics Curriculum Framework is provided in Item 2 of the July 2012 SBE Agenda.

- An update regarding the development of English Language Development standards is provided in Item 3 of the July 2012 SBE Agenda.

3. Develop and transition to CCSS-aligned assessment systems to inform instruction, establish priorities for professional learning, and provide tools for accountability.

- The first data collection window for the Technology Readiness Tool was extended to June 30, 2012. This extension was made at the request of states and allowed districts more time to submit data following the end of the school year. The data collected from the survey is being extracted, cleaned, and incorporated into a report regarding a technology plan and support for legacy operating systems. This report is expected in August 2012.

- An update regarding the reauthorization of the statewide pupil assessment system is provided in Item 4 of the July 2012 SBE Agenda.

4. Collaborate with parents, guardians and the early childhood and extended learning communities to integrate the CCSS into programs and activities beyond the K–12 school setting.

- The California Department of Education has released a new online publication: *The Alignment of the California Preschool Learning Foundations with Key Early Education Resources: California Infant-Toddler Learning and Development Foundations, California Content Standards, The Common Core State Standards, and Head Start Child Development and Early Learning Framework.* This document highlights how the California Preschool Learning Foundations are aligned and connected to standards established for K-12, Infant-Toddler and the national preschool standards established by Head Start. This document is now available in PDF format at http://www.cde.ca.gov/sp/cd/re/psalignment.asp (the preceding hyperlink will be available on July 13, 2012). An abbreviated, print version will be featured as a special chapter in the *California Preschool Learning Foundations Volume 3* available Fall 2012.

- The *Parent Handbook for California Common Core Standards* is now available in Spanish. The original publication was produced in 2011 by the California County Superintendents Educational Services Association (CCSESA) and the Sacramento County Office of Education. The Spanish translation was produced by the CDE Clearinghouse for Multilingual Documents. The *Parent Handbook* provides a detailed overview of what students will be learning in English-language arts and mathematics programs that are aligned with the CCSS. Users may download the free publications from the CDE CCSS Resources California Stakeholder Resources page at http://www.cde.ca.gov/ci/cc/castakeholderorgs.asp (the preceding hyperlink will be available on July 13, 2012) and the CCSESA Web page at http://www.ccsesa.org/index/sp_CommonCoreStandards.cfm.

7. Design and establish systems of effective communication among stakeholders to continuously identify areas of need and disseminate information.

- The CDE has developed a Web-based CCSS systems implementation plan. The plan will be updated continuously to provide stakeholders with timely information regarding the progress of the CCSS systems implementation activities of the CDE and SBE. The Web-based plan is available at http://www.cde.ca.gov/re/cc.

- CDE Communications Division Director Paul Hefner, Senior Fellow Nancy Brownell, and Barbara Murchison, Common Core Systems Implementation Office, participated in the Council of Chief State School Officer's Communications Directors Network Meeting in Chicago, IL on June 6-8, 2012. The California team had the opportunity to collaborate on strategic communications work, network and learn from other states and organizations, and continue work on developing comprehensive strategic communications focused on college and career readiness.

- An update regarding outreach communications is provided in Attachment 2.

CCSS Implementation Outreach Activities

Engage partners in facilitating two-way communication and leverage local and state implementation activities.

Dates	Activities
May 11, 2012	Update to CDE Foundation Board on work in progress
May 17-18, 2012	Joint CDE/Curriculum and Instruction Steering Committee spring meeting, discussion and data gathering on CCSS implementation in each of the CCSESA 11 regions
May 22, 2012	Planning meeting with Intersegmental Coordinating Committee (ICC) and California Academic Partnership Program (CAPP)
May 23, 2012	Planning for CCSS Topics for Annual CDE Title I Conference
June 4, 2012	Sonoma County Schools, Common Core and 21st Century Learning Institute
June 6-8, 2012	CCSSO Communications Strategies meeting in Chicago, IL
June 21, 2012	San Bernardino County District Superintendents' Retreat – Common Core Messaging
June 22, 2012	California Academic Partnership Program (CAPP) – School Teams Summer Institute – Instructional Shifts for the Common Core
July 11, 2012	Intersegmental Coordinating Committee Panel Presentation

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 2

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve, 2013 Revision: Approval of Curriculum Framework and Evaluation Criteria Committee Guidelines and Appointment of Members of the Curriculum Framework and Evaluation Criteria Committee. The *Mathematics Focus Group Report* will also be discussed.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

California *Education Code* (*EC*) Section 60207 requires the State Board of Education (SBE) to adopt a revised mathematics curriculum framework and evaluation criteria for the adoption of mathematics instructional materials aligned to the Common Core State Standards for Mathematics (CCSSM).The *California Code of Regulations*, Title 5 (5 *CCR*), Section 9511, allows the SBE to establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the development of curriculum frameworks and evaluation criteria and sets requirements regarding the composition of a CFCC. The Instructional Quality Commission (IQC) makes recommendations to the SBE on the guidelines that direct the work of the CFCC and the appointment of CFCC members. At this meeting, the SBE will approve guidelines for the Mathematics CFCC (MCFCC) and appoint MCFCC members.

RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE: (1) approve the "Curriculum Framework and Evaluation Criteria Committee Guidelines for the 2013 Revision of the *Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve,"* as recommended by the IQC, and (2) appoint 19 members to the MCFCC, including Susan Stickel as Chair of the MCFCC, as recommended by the IQC.

BRIEF HISTORY OF KEY ISSUES

Revising the *Mathematics Framework* to align with the CCSSM is an important component in the implementation of the CCSSM adopted by the SBE in August 2010. The revision of the *Mathematics Framework* is a multi-step process involving educators, content experts, and other education and community stakeholders. Throughout the revision process, there are opportunities for public input at meetings of the MCFCC, IQC, and SBE and during two 60-day public review periods.

Mathematics Focus Group Report

In February and March 2012, the CDE convened four public focus groups to gather input from educators and the public regarding what guidance and information should be included in the revised framework to support implementation of the CCSSM. The *Mathematics Focus Group Report* is a summary of oral comments made at the focus group meetings and a compilation of the written comments received in February and March 2012 regarding the revision of the *Mathematics Framework.* The report can be found at http://www.cde.ca.gov/ci/ma/cf/documents/mathfocusgroupreport.doc. Because the report is provided as information, no SBE action on the report is required. The comments in the report informed the development of guidelines for the MCFCC.

Guidelines for the MCFCC

On May 4, 2012, the IQC acted to recommend to the SBE guidelines to direct the work of the MCFCC. These guidelines are based on current statutory requirements, oral comments from the four focus group meetings held in February and March 2012, and written comments received in February and March 2012. Curriculum Frameworks and Instructional Resources Division (CFIRD) staff developed the initial draft of the guidelines, and the IQC modified the guidelines at its May meeting.

The "Draft Curriculum Framework and Evaluation Criteria Committee Guidelines for the 2013 Revision of the *Mathematics Framework for California Public Schools, Kindergarten Through Grade Twelve"* (*Guidelines*) is located on the CDE Curriculum Frameworks Web page at http://www.cde.ca.gov/ci/ma/cf/index.asp. The *Guidelines* direct the work of the MCFCC and require the inclusion of specific content.

In general, the draft guidelines propose that the revised *Mathematics Framework* shall:

- Be aligned to the Common Core State Standards for Mathematics and consistent with their focus, coherence, rigor, and depth.
- Be a living document with links to implementation tools and research.
- Provide options for higher mathematics, including options at the middle-school level.
- Include an expanded chapter on universal access with instructional support for English learners and students with disabilities.
- Include an updated chapter on technology.
- Be consist with and supportive of the SMARTER Balanced Assessment Consortium's test content specifications.

Appointment of MCFCC Members

On May 4, 2012, the IQC took action to recommend to the SBE 19 applicants for appointment to the MCFCC. The 5 *CCR,* Section 9511, governs the appointment of MCFCC members and sets a limit of between 9 and 20 members. The regulations require that:

- A majority of the MCFCC be comprised of teachers who, at the time of their appointment, teach students in kindergarten through grade twelve, have a professional credential under state law, and meet the criteria for "highly qualified" teachers under federal law.

- At least one of the teachers must have experience providing instruction to English learners.

- At least one of the teachers must have experience providing instruction to students with disabilities.

- At least one member of the MCFCC must have a doctoral degree in mathematics or a related subject.

- Other members of the MCFCC can be administrators, parents, local school board members, or teachers who do not meet the requirements listed above, and community members.

- The regulations also require that the SBE appoint MCFCC members who are reflective of California's diversity and its different regions and types of school districts.

The 19 IQC-recommended applicants meet the 5 *CCR* requirements. Ten of the recommended applicants are currently classroom teachers. Of the nine non-teacher applicants, three teach at a college or university, three are district-level curriculum specialists, and three are currently or formerly employed by a county office of education. All of the recommended applicants indicated they have experience teaching English learners, and all but three of the applicants indicated they have experience teaching students with disabilities. Four of the recommended applicants have doctorate degrees in education, and two of the recommended applicants have a doctorate in mathematics. Four of the recommended applicants have earned National Board Certification. The recommended applicants have between 7 and 42 years of experience in education each.

IQC Recommendations for MCFCC

The IQC recommends the following applicants to the SBE for appointment to the MCFCC and recommends that the SBE appoint Applicant Number 374, Susan Stickel, to serve as Chair of the MCFCC:

Teachers

Applicant Number	Name	Employer	Position
331	Brian Jaramillo	Ventura Unified School District	Mathematics Teacher
334	Isabella S. Hoegerman	Apple Valley Unified School District	Mathematics Teacher
339	Theodore Sagun	Whittier City School District	Calculus/Geometry/Algebra Teacher
352	Lynda T. Asher	Las Virgenes Unified School District	Teacher
360	Susan M. Kunze	Elm Street School, Bishop Unified School District	Teacher
373	Erin L. Fraser	El Camino High School, Oceanside Unified School District	Mathematics Teacher
392	Carol Kohn	North Beardsley Elementary School, Beardsley School District	English Learners Teacher
404	Bruce C. Grip	Chaffey Joint Union High School District	High School Mathematics Teacher
425	Brian J. Shay	Canyon Crest Academy	Mathematics Teacher
431	Ma Bernadette A. Salgarino	East Side Union High School District	Department Chair, Mathematics

Non-Teachers

Applicant Number	Name	Employer	Position
340	Christina M. Silvas-Centeno	San Jose Unified School District	District Mathematics Instructional Coach
341	Heather J. Dallas	University of California, Los Angeles, Mathematics Department	Lecturer
354	Bruce W. Yoshiwara	Los Angeles Pierce College	Professor and Department Chair of Mathematics
356	Joseph R. Fiedler	California State University, Bakersfield	Professor of Mathematics
364	Patricia Duckhorn	Retired July 2011 Formerly Sacramento County Office of Education	Formerly Director of Mathematics
374	Susan Stickel Recommended for appointment as Chair of	Sacramento County Office Of Education	Deputy Superintendent

Applicant Number	Name	Employer	Position
	the CFCC		
377	Rosa Serratore	Santa Monica-Malibu Unified School District	Coordinator of Mathematics and Teacher Support
380	Julie L. Joseph	Tulare County Office of Education	Instruction Consultant, Mathematics
388	Sunny W. Chin-Look	Alhambra Unified School District	Math Instructional Specialist at District Level

Profiles of the 19 recommended applicants (Attachment 3) provide a summary of information regarding each applicant.

A complete set of all 121 applications, including profiles, application forms, and resumes, is available for viewing in the SBE Office.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

March 2012: The SBE appointed 13 members to serve on the IQC, including one member whose term will not begin until 2013.

January 2012: The SBE approved the timeline and MCFCC application form for the 2013 revision of the *Mathematics Framework*. The MCFCC application was available online from January 17 through April 18, 2012.

August 2010: The SBE adopted the academic content standards in mathematics as proposed by the California Academic Content Standards Commission (ACSC); the standards include the CCSSM and specific additional standards that the ACSC had deemed necessary to maintain the integrity and rigor of California's already high standards.

January 2008: The SBE adopted new 5 *CCR* sections governing the curriculum framework and instructional materials adoption process.

November 2007: The SBE adopted instructional materials in mathematics for kindergarten through grade eight.

March 2005: The SBE adopted the *Mathematics Framework for California Public Schools: Kindergarten Through Grade Twelve* and the criteria for evaluating instructional materials submitted for the 2007 Mathematics Primary Adoption.

FISCAL ANALYSIS (AS APPROPRIATE)

The cost to revise the *Mathematics Framework* is anticipated to be a total of $135,000 over three budget years, 2011–2012, 2012–2013, and 2013–2014. This cost includes the expenses of the focus group meetings, the MCFCC, and the meetings of the IQC and its subcommittee, the Mathematics Subject Matter Committee. The expenses are also comprised of the costs of a contracted mathematics writer and other costs associated with the procedures mandated in 5 *CCR* regulations for the adoption of curriculum frameworks. In addition, the cost for editing and printing of the curriculum framework will amount to $194,000.

In addition, the CDE budget will cover the anticipated $1.54 million in CDE staff costs. Costs to revise the *Mathematics Framework* will be paid by State General Fund dollars.

ATTACHMENT(S)

Attachment 1: Profiles of Instructional Quality Commission-Recommended Applicants for the Mathematics Curriculum Framework and Evaluation Criteria Committee (21 Pages)

Profiles of Instructional Quality Commission-Recommended Applicants for the Mathematics Curriculum Framework and Evaluation Criteria Committee

331 Brian Jaramillo, Mathematics Teacher

Ventura Unified School District, Ventura, California

Area(s) of Expertise: Administrator, teacher providing instruction to students in kindergarten or grades one to twelve, parent

Grade and other Levels of Expertise: 6–8, 9–12
adult education

Years Teaching: 7

Experience Teaching English Learners:

Grade levels: 9–12, for 7 years of instruction. I served on the Standard Setting Workshop in 2011 for Algebra and Geometry through the ETS and CDE. I have my Crosscultural, Language, and Academic Development certificate for teaching English Learners. I have taken classes from University of California, Santa Barbara, for Teaching English as a Second Language. I have taught GED classes in Spanish through the Adult Education program. I have been the migrant education teacher, assisting students in English and Spanish.

Experience Teaching Students with Disabilities:

Grade levels: 9–12, for 7 years of instruction. I took multiple classes on special education during my teacher credentialing program. I worked 10 years with people with developmental disabilities as an instructor before and concurrent with being a high school teacher.

Ethnicity: Hispanic/Latino, Asian

Degrees/ Certifications:

- Master of Arts, Mythology/Psychology, Pacifica Graduate Institute
- Administrative Credential, National University
- Single Subject Teaching Credential: Mathematics, California State University, Channel Islands
- Bachelor of Science, Physics/Engineering, Westmont College

334 Isabella S. Hoegerman, Mathematics Teacher

Apple Valley Unified School District, Apple Valley, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve, teacher not providing instruction to students in kindergarten or grades one to twelve

Teacher on Assignment, Mathematics Coach

Grade and other Levels of Expertise: 3–5, 6–8

Years Teaching: 27

Experience Teaching English Learners:

I have had English Learners in my classes over the years and have provided them with instruction in whatever course I was teaching them at the time. I have provided this instruction to students in grades 4–8 over the past 27 years in the areas of math, science, ELA, social studies, as well as elective courses such as art and PE. I have a Clear Certificate of Completion of Staff Development that was issued in 2007 with authorization codes S17D and S17S.

Experience Teaching Students with Disabilities:

I have taught a few of students with severe disabilities that required a 504. A couple of students were visually impaired and needed the aid of large print books, magnifying glasses, and special microfilm type readers and computers to help them complete assignments in class. Also, special versions of state tests had to be ordered for them. I also had another student who had brittle bone disease, in a special motorized wheel chair and had an aid assigned to him at school. All of these students were in the 6th grade when I taught them. I taught them math and science. They did not have any academic challenges, only physical ones.

Ethnicity: White

Degrees/ Certifications:

- National Board Certification, Mathematics/Early Adolescence, National Board for Professional Teaching Standards, 2000, renewed 2010
- Clear Single Subject Credential, Mathemathics, State of California 2012
- Clear Multiple Subject Credential, University of California, Irvine 1985
- Bachelor of Arts Drama, University of California, Irvine 1983

339 Theodore Sagun, Calculus/Geometry/Algebra Teacher

Whittier City School District, Whittier, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve, teacher not providing instruction to students in kindergarten or grades one to twelve

Teacher Education (Doctorate in Education: Emphasis – Teacher Education in Multicultural Societies)

Grade and other Levels of Expertise: 6–8, 9–12

Mathematics Education

Years Teaching: 7

Experience Teaching English Learners:

I have taught 6th grade to 12th grade. The classes I have taught include General Mathematics, Algebra 1, Geometry, and Calculus BC. The class I currently teach which includes ELs is Algebra 1. I have taught General Mathematics for four years that has included EL students. I have taught ELs in Algebra 1 for 7 years. I earned a Single Subject Teaching Credential in Mathematics. I have a Doctorate in Education with an emphasis in Teacher Education in Multicultural Societies.

Experience Teaching Students with Disabilities:

I have taught students with learning needs, but I do not consider them disabled. In my humble perspective, these students may sometimes have a diminished cognitive capacity to process information, but their ability to learn is simply at a slower pace. I have not taught severely handicapped students.

Ethnicity: Native Hawaiian or Other Pacific Islander

Degrees/ Certifications:

- Doctor of Education/Teacher Education in Multicultural Societies, University of Southern California
- Master of Arts in Education/ Specialization in Teaching of Mathematics, Stanford University
- Bachelor of Arts in Mathematics, California State University, Los Angeles

340 Christina M. Silvas-Centeno, District Mathematics Instructional Coach

San Jose Unified School District, San Jose, California

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Years Teaching: 15

Experience Teaching English Learners:

Currently, I work with teachers, grades K–5, to differentiate their math lessons to leverage second language learners. I posses a Crosscultural, Language, and Academic Development certificate and have ten years experience teaching Specially Designed Academic Instruction in English (SDAIE) classes, grades 6th–9th grade.

Experience Teaching Students with Disabilities:

Ethnicity: Hispanic/Latino

Degrees/ Certifications:

- Doctor of Education in Educational Leadership Specialization in Curriculum and Instruction, University of Phoenix
- Master of Arts Elementary Education, San Jose State University
- Multiple Subject Credential and Supplemental authorization in Mathematics, San Jose State University
- Administrative Service Credential, School Leadership Study Assessment series

341 Heather J. Dallas, Lecturer

University of California, Los Angeles, Mathematics Department, Los Angeles, California

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve

Former high school teacher. Now teaching mathematics and mathematics education courses to undergrads

Grade and other Levels of Expertise: 9–12

university

Years Teaching: 19

Experience Teaching English Learners:

From grade 9–12 for 12 years. I have a Crosscultural, Language, and Academic Development credential.

Experience Teaching Students with Disabilities:

Grade 9–12. Students who with auditory and learning disabilities. I do not have a specialized credential.

Ethnicity: White

Degrees/ Certifications:

- Master of Arts, Mathematics Education, University of California, Los Angeles
- Bachelor of Science, Pure Mathematics, University of California, Los Angeles
- National Board Credential in Mathematics/Adolescence and Young Adulthood, National Board for Professional Teaching Standards
- California Clear Credential, Secondary Mathematics, University of California, Los Angeles

352 Lynda T. Asher, Teacher

Las Virgenes Unified School District, Calabasas, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: 6–8, 9–12

Years Teaching: 25

Experience Teaching English Learners:

I have taught EL middle school math students in pre algebra and algebra courses since I started teaching in Las Virgenes Unified School District in 1998. Since I received the SB395 (Los Virgenes Unified School District version of Crosscultural, Language, and Academic Development certificate) in 2004, I have worked with Level 1 to 5 EL students from various backgrounds. I accommodate their academic program as is needed for their success.

Experience Teaching Students with Disabilities:

I have no specialized training in this area- I have taught disabled children that are placed in my class. This includes, but is not limited to muscular dystrophy, emotional disabilities, cancer, growth hormone issues, and others. My job is to teach them and accommodate their academic program as is needed for their success.

Ethnicity: Hispanic/Latino

Degrees/ Certifications:

- 2006: Master of Arts, Implementing Technology into the Curriculum, Grand Canyon University
- 1976: Bachelor of Arts, Mathematics, University of California at Santa Barbara
- 1977: Clear Secondary Credential, University of California at Santa Barbara
- 2004: Crosscultural, Language, and Academic Development Certificate, SB 395, Las Virgenes Unified School District

354 Bruce W. Yoshiwara, Professor and Department Chair of Mathematics

Los Angeles Pierce College, Woodland Hills, California

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve

I served as Content Review Panelist for California's 2007 Mathematics Primary Adoption

Grade and other Levels of Expertise: California two-year college

Years Teaching: 23

Experience Teaching English Learners:

I have no special training for teaching ELL students, but I have had ELL students in my classes.

Experience Teaching Students with Disabilities:

I have no special training for teaching students with disabilities, but I have had hearing and sight impaired students in my classes, as well as students diagnosed with learning disabilities.

Ethnicity: Asian

Degrees/ Certifications:

- Doctor of Philosophy, Mathematics, University of California, Los Angeles
- Candidate of Philosophy, Mathematics, University of California, Los Angeles
- Master of Arts, Mathematics, University of California, Los Angeles
- Bachelor of Arts, Mathematics, University of California, Los Angeles

356 Joseph R. Fiedler, Professor of Mathematics

California State University, Bakersfield, Bakersfield, California

Area(s) of Expertise: Community Member
Professor of Mathematics

Grade and other Levels of Expertise: 6–8
College University

Years Teaching: 42

Experience Teaching English Learners:

College and University Level.

Experience Teaching Students with Disabilities:

College and University Level.

Ethnicity: White

Degrees/ Certifications:

- Doctor of Philosophy, Mathematics, The Ohio State University
- Master of Science, Mathematics, The Ohio State University
- Bachelor of Arts, Mathematics, Harvard University

360 Susan M. Kunze, Teacher

Elm Street School, Bishop Unified School District, Bishop, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: K–2, 3–5

Years Teaching: 33

Experience Teaching English Learners:

I have provided instruction to English learners for thirty years. I currently hold a multiple subject credential with a Crosscultural, Language, and Academic Development enhancement. I participate in continuing education in ELD instruction, such as STELLAR training.

Experience Teaching Students with Disabilities:

I have provided instruction to students with disabilities over the past thirty years. Students from both our resource and special day programs have been included successfully each year in my classroom. In addition, I am the parent of a learning disabled child who is currently a post-secondary student. Although I do not have any specialized credential, I do have some training with Lindamood-Bell Learning Processes, including Seeing Stars, Visualization and Verbalization, and On Cloud Nine (math).

Ethnicity:

Degrees/ Certifications:

- Master of Education, University of Nevada, Las Vegas
- Bachelor of Arts, Point Loma Nazarene University

364 Patricia Duckhorn, Formerly Director of Mathematics

Retired July 2011 Formerly Sacramento County Office of Education, Sacramento, California

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 3–5, 6–8

Years Teaching: 24

Experience Teaching English Learners:

Helped support many classroom teachers of English Learners.

Experience Teaching Students with Disabilities:

Ethnicity: White

Degrees/ Certifications:

- Administrative Credential, California State University, Sacramento
- Bachelor of Arts, University of California, Davis

373 Erin L. Fraser, Mathematics Teacher

El Camino High School, Oceanside Unified School District, Oceanside, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve, parent

Grade and other Levels of Expertise: 9–12

Years Teaching: 16

Experience Teaching English Learners:

Grades 9–12 for 16 years. Specially Designed Academic Instruction in English (SDAIE) Certified

Experience Teaching Students with Disabilities:

Grades 9–12 for 16 years

Ethnicity: White

Degrees/ Certifications:

- Master of Arts, Teaching with emphasis on National Board Teacher Leadership Adolescent and Young Adult Mathematics, National University
- Single Subject Teaching Credential, Mathematics, Chapman University
- Bachelor of Science, Mathematics, California State University, Long Beach
- Associate of Arts, Liberal Studies, Palomar College

374 Susan Stickel, Deputy Superintendent

Sacramento County Office Of Education, Mather, California

Area(s) of Expertise: Administrator, teacher not providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: 3–5, 6–8, 9–12

Years Teaching: 13

Experience Teaching English Learners:

I provided instruction to English Learners in mathematics in grades 9–12. Although I attended many professional development events I did not earn a specialized credential.

Experience Teaching Students with Disabilities:

Although I attended several workshops for students I did not receive a specialized credential. I provided instruction in grades 9–12 by assisting in RSP classrooms and then serving the same students in my own mathematics classroom.

Ethnicity: White

Degrees/ Certifications:

- Master of Arts in Educational Administration, University of San Francisco
- Administrative Services Credential, University of San Francisco
- Bachelor of Arts in Mathematics, California State University, Sacramento
- Secondary Mathematics Teaching Credential, California State University, Sacramento

377 Rosa Serratore, Coordinator of Mathematics and Teacher Support

Santa Monica-Malibu Unified School District, Santa Monica, California

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: 6–8, 9–12

Years Teaching: 21

Experience Teaching English Learners:

ELL students were always a part of my math classroom grades 6–12. I have my Crosscultural, Language, and Academic Development certification.

Experience Teaching Students with Disabilities:

Students with disabilities were always a part of my math classroom grades 6–12. When getting certified in Canada, I did further students to earn Ontario's Special Education Part 1 extension to my teaching certificate. Over my years in education, I have participated in numerous professional development sessions.

Ethnicity: White

Degrees/ Certifications:

- Master of Arts, Education Administration, California State University at Northridge (CSUN)
- Bachelor of Arts, Education, Mathematics/French, University of Toronto
- Bachelor of Arts, French/Economics, University of Western Ontario, London Canada
- Second Language Teaching and Learning Certificate--Monitrice langue seconde, Université Laval, Québec Canada

380 Julie L. Joseph, Instruction Consultant, Mathematics

Tulare County Office of Education, Visalia, California

Area(s) of Expertise: Administrator

Grade and other Levels of Expertise: K–2, 3–5, 6–8, 9–12

Years Teaching: 21

Experience Teaching English Learners:

I have taught English Learners in the regular mathematics classroom in grades 7–12 for 10 years. In addition, I currently teach English Learners when I am modeling lessons as a coach. I completed the staff development for English Learners and obtained the certificate that authorizes me to provide the following services to limited-English-proficient pupils: (1) specially designed content instruction delivered in English in the subject and the grade authorized by the teacher's basic credential, and (2) instruction for English language development to students in a departmentalized class.

Experience Teaching Students with Disabilities:

I have taught students with disabilities that were mainstreamed into the regular mathematics classroom in grades 7–12 for 10 years. I currently teach mainstreamed students with disabilities when I am modeling lessons as a coach. In addition, I provide professional development to special education mathematics teachers in order to help them implement hands-on strategies that build understanding.

Ethnicity: White

Degrees/ Certifications:

- Master of Arts in Education, Option: Mathematics Education, California State University, Northridge
- Master of Arts in Education, Option: Administration and Supervision, California State University, Fresno
- Bachelor of Arts, Liberal Arts, Pepperdine University

388 Sunny W. Chin-Look, Mathematics Instructional Specialist at District Level

Alhambra Unified School District, Alhambra, California

Area(s) of Expertise: Teacher not providing instruction to students in kindergarten or grades one to twelve
BTSA Support Provider

Grade and other Levels of Expertise: K–2, 3–5, 6–8

Years Teaching: 20

Experience Teaching English Learners:

I taught 2 years 9th grade SDAIE Algebra. Being an ELL myself, I have insight in both learning and teaching mathematics to language learners. I have Bilingual/ Bi-cultural Certificate of Competence. I had training with The SIOP Model (Sheltered Instruction Observation Protocol with 8 components and 30 features) designed to make content comprehensible for ELLs by following systematic process for teaching both mathematics and academic content language to ELLs. With my experience, I presented a session at my district Beginning Teacher Support and Assessment (BTSA) New Teacher Seminar about why ELLs have difficulty with Academic Language. A common misconception is assuming that mathematics is a universal language. In reality, the content maybe universal but the algorithm and concept development can be very different. For example, in American number system, every three digits form a unit. A comma is often used to separate the units. In many Asian countries, every four digits form a unit and no comma is used to separate the units. Another example is about the way “fraction” is read. In American, numerator precedes denominator. We read ¾ as three-fourth. Yet, in many Asian languages, ¾ is read as 4 divides 3. The denominator precedes numerator. These subtle differences can disrupt students’ flow of thinking; therefore, It is crucial to provide instruction orally and in written to support ELL in learning content knowledge as well as academic language development. Teaching math to ELL is not about teaching a different math but teaching math differently so as to remove the language barriers that may hinder ELL’s progress in math.

Experience Teaching Students with Disabilities:

As an instructional specialist in mathematics, people consulted with me about the strategies for teaching under-performing students with special learning needs whether identified or not. During those moments, I used to find my suggestions superficial as I really lacked experience in teaching special pops. Last year I proposed to a district school and got to teach a 7th grade intervention program. It was an opportunity to test my learning about teaching students with disabilities either identified (RSP status) or not identified. I consistently used manipulatives and pictorial aid to make sense of context. I demonstrated word problems by using Singapore Math Bar Model throughout the course, connected isolated concepts with Thinking Math, engaged students in small group and then big group discussions, used revoicing technique to maximize students attention span, developed students understanding to math definitions with concept attaining model (yes/no column to teach concept definition), and utilized four-fold way (words, table, graph, function rules) in developing students’ algebraic thinking. A surprise finding was how powerful technology can be used to

enhance student learning and self-efficacy. I introduced students to the graphing calculator TI84 which seldom makes their way into math intervention programs. The students embraced it and had no fear of exploring its versatile functions. This intervention program gave me the platform to apply for National Board Certified Teacher (NBCT) for Early Adolescence. It was the most valuable and meaningful professional growth experience. Out of 18 students, 11 of them tested proficient on California Standards Test grade level math at the end of year. Not only now I feel more credible in talking about teaching under-performing students, the NBCT title adds to my confidence and credential as a math teacher leader for both General Education and Special Education.

Ethnicity: Asian

Degrees/ Certifications:

- National Board Certified Teacher in Mathematics, National Board for Professional Teaching Standards
- Master of Arts, Teacher Leadership, National University
- Bachelor of Arts, Speech Communications, California State University, Northridge

392 Carol Kohn, English Learners Teacher

North Beardsley Elementary School, **Beardsley School District**, Bakersfield, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve, teacher not providing instruction to students in kindergarten or grades one to twelve, parent, community member
CA State University School of Education

Grade and other Levels of Expertise: K–2, 3–5
Adjunct Lecturer, CSU School of Education

Years Teaching: 25

Experience Teaching English Learners:

I am the EL teacher at North Beardsley Elementary School for 49 ELs, K–5th, CELDT levels 1–4. In the past, I have had English Learners in my classroom for at least ten of my teaching years (K-8th). I have a Crosscultural, Language and Academic Development Certificate (Clear). I also have had extensive training in Project GLAD (Guided Language Academic Design), and have provided professional development to teachers in this area. The title of my doctoral dissertation is “Increasing Mathematics Achievement of Mexican Immigrant Students: Instructional Policy and Classroom Practice.” The dissertation is a qualitative study that is based upon interviews in two data sets: an existing data base of interview narratives of 158 Mexican immigrants conducted by pre-service elementary education students at California State University, Bakersfield (CSUB); and a second data base of 19 educators from California’s lower Central Valley. Most of the educators in the second data base were teachers who originally learned mathematics as students in Mexico, and who are now teaching in California classrooms. Analyses generated three core categories to help explain how Mexican and American instructional practices influenced immigrant students’ ability to transition to learning mathematics in the United States. (a) the practical and job related purposes of mathematics. (b) differences of expectations; and (c) issues with initial placement of immigrant students into mathematics coursework in California classrooms. As an Adjunct Lecturer for the CSUB School of Education, I have taught instructional methodology for teaching English Learners, including theory and practice for teaching English Learners who also qualify for special education services (EDSP 680). My courses also include how to incorporate instructional practices for EL students in lesson planning (EDEL 429, 461; EDSE 432) (see resume).

Experience Teaching Students with Disabilities:

I have a Special Education Specialist Credential-Learning Handicapped (Clear), a Resource Specialist Certificate (Clear) and a Masters in Special Education. I was a Special Day Class teacher (mild/moderate) for seven years (Grades 4th–6th), and a Resource Specialist for a year (Grades 6th–8th). Almost every year that I served as a classroom teacher I had at least some students who were receiving special education services. The title of my Masters’ Project is “Motivational strategies for teaching writing fluency to learning disabled students and their mainstreaming peers.” Since 1991, I have taught special education classes at California State University, Bakersfield (CSUB), including the introductory course that is required for all K–12 pre-service

teachers (EDSP 301); Remedial Reading Strategies (EDSP 550); Special Education Remedial Strategies in Mathematics and Science (EDSP 540); Curriculum/Instructional Adaptations for Students with Diverse Needs (EDSP 504); and Current Instructional Practices for Diverse Learners (EDSP 680).

Ethnicity: Decline to state

Degrees/ Certifications:

- Doctor of Education, Educational Administration, University of the Pacific
- Master of Arts, Education – Special Education, California State University, Bakersfield
- Bachelor of Arts, English, University of California, Los Angeles
- Professional Clear Administrative Services Credential, California State University, Bakersfield

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404 Bruce C. Grip, High School Mathematics Teacher

Chaffey Joint Union High School District, Ontario, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: 9–12
Community College Part-time Mathematics

Years Teaching: 35

Experience Teaching English Learners:

I teach at Valley View Continuation High School. According to the 2010-2011 SARC, 41% of our students qualified for EL support. Thirty of my students have overall CELDT proficiency of 3 or 4 and two of my students are CELDT level 2. I have been trained and certified in SDAIE by my district. I have completed, through my district, the equivalent of a course in Academic Language development presented by Dr. Maria Montano-Harmon. For seven years of my career I served as a support provider for new teachers who served English learners. My first year of teaching I was assigned to teach Arithmetic BLBC (bi-lingual, bi-cultural) for students who would probably be CELDT 1 or 2 today.

Experience Teaching Students with Disabilities:

Ethnicity: White

Degrees/ Certifications:

- Master of Science, Counseling, California State University, Fullerton
- Bachelor of Science, Mathematics, California State Polytechnic University, Pomona
- R-1 Single Subject Teaching Credential, Mathematics, California State Polytechnic University, Pomona
- Limited Community College Credential, Mathematics, Chaffey Community College, Rancho Cucamonga

425 Brian J. Shay, Mathematics Teacher

Canyon Crest Academy, San Diego, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve

Grade and other Levels of Expertise: 9–12

Years Teaching: 11

Experience Teaching English Learners:

I went through a Crosscultural, Language, and Academic Development certificate program when I received my teaching credential in 2001. My first year teaching was at a high school where over half of my students were English Language learners. I then moved to a different high school where approximately one third of my students were language learners. The school that I am current at has approximately 10% English language learners and I consistently teach a few language learners each year. I frequently attend sessions at regional mathematics conferences on differentiating instruction to reach ELLs.

Experience Teaching Students with Disabilities:

I have always had students with disabilities in my classes. The proportion of students with disabilities has ranged from 5%-60% in each class. I team-taught a section of Algebra 1 in 2005-2006, where over half the class was students with IEPs and 504s. The special education teacher and I worked together to create lessons, activities and assessments that met the individual needs of each student as well as the global needs of the class.

Ethnicity: White

Degrees/ Certifications:

- Master of Arts in Teaching, University of California, Davis
- Single Subject Teacher Credential, Mathematics, University of California, Davis
- Master of Arts in Mathematics, University of California, Davis
- Master of Arts in Mathematics, State University of New York, Potsdam

431 Ma Bernadette A. Salgarino, Department Chair, Mathematics

East Side Union HighSchool District, San Jose, California

Area(s) of Expertise: Teacher providing instruction to students in kindergarten or grades one to twelve, parent, community member
SB 472 instructor,EAP presenter, VPSS instructor

Grade and other Levels of Expertise: 6–8, 9–12

Years Teaching: 24

Experience Teaching English Learners:

Grades 6–12 Years: 24 years (10 years in the US) I started teaching in the Philippines. English is the language of instruction but students have different L1 (first language: Chinese, Japanes, Filipinos, Koreans, and others). Here in the US, I have my Clear credential in mathematics, Crosscultural, Language, and Academic Development credential, National Board Certification (Mathematics/Adolesence and Young Adulthood) and have been working with ELs since I came in 2002. Because of my experience and background, I involved myself with Santa Clara County Office of Education's A Look at Learning Professional development that is geared towards literacy and content area development. My class have been observed many times, and videotaped to document the success I do with ELs.

Experience Teaching Students with Disabilities:

Grades 9–12 Years : 10 years Students with IEP and have 504 are mixed in my math classes. I have no certificate or credential for special education but have been working with special education teachers and students to improve teaching and learning.

Ethnicity: Asian
Filipino

Degrees/ Certifications:

- Doctor of Education (Educational Management), The National Teachers University, Manila Philippines
- Master of Arts in Mathematics, Philippine Normal University, Manila, Philippines
- Bachelor of Secondary Education in Mathematics, Philippine Normal University

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 3

CALIFORNIA STATE BOARD OF EDUCATION

July 2012 AGENDA

SUBJECT	
Update on the Activities of the California Department of Education Regarding the Development of the English Language Development Standards for California Public Schools, Kindergarten through Grade Twelve.	☐ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE) adopted the Common Core State Standards (CCSS) for English language arts (ELA) in August 2010.

California *Education Code* Section 60811.3 (a), created by Assembly Bill (AB) 124 (Chapter 605, Statues of 2011), requires that the State Superintendent of Public Instruction (SSPI), in consultation with the SBE, update, revise, and align the English language development (ELD) standards to the SBE-adopted CCSS for ELA.

RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE take no specific action at this time.

BRIEF HISTORY OF KEY ISSUES

The SBE adopted the CCSS for ELA in August 2010. These standards became the current subject-matter standards in ELA. In October 2011, Governor Edmund G. Brown, Jr. signed AB 124 into law, which requires that the SSPI, in consultation with the SBE, update, revise, and align the ELD standards to the adopted CCSS for ELA. As mentioned during the March 2012 SBE meeting, the charge is to develop ELD standards aligned by grade level comparable to, and as rigorous and specific as, the adopted CCSS for ELA.

In meeting these requirements, the SSPI must convene a group of experts in English language instruction, curriculum, and assessment including individuals who have a minimum of three years of demonstrated experience instructing English learners (ELs) in the classroom at the elementary or secondary level. Also, AB 124 requires two public hearings and puts in place a deadline of August 31, 2012 to present the proposed standards to the SBE.

The CDE updated the SBE at the May 2012 SBE meeting on the activities of the first panel of experts meeting that was held on March 19, 2012. During this first one-day meeting, the panelists were given an orientation on their roles and responsibilities. Panelists also discussed general design principles; structure and organization of the standards; and the level of specificity and focus of the ELD standards. Presentations were made by the CDE and WestEd and are located on the CDE ELD Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

The CDE convened three two-day panel of experts meetings during the months of April through June: April 30–May 1; May 21–22; and June 21–22.

April 30–May 1 Panel of Experts Meeting

During the April 30–May 1 meeting, the guiding design principles, correspondence between the current California ELD standards and the CCSS for ELA, and the first draft of the ELD standards template and standards were reviewed and discussed. Two presentations were used at the meeting; one by the CDE and one by WestEd. The CDE's presentation and WestEd's Next Generation ELD Standards presentation are located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

The CDE distilled seven design principles to guide the development of the ELD standards. The principles that arose from the March 19 panel of experts meeting discussion, were presented and discussed at the April 30–May 1 meeting. The English Language Development Standards Design Principles document is located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp. The design principles describe what the revised ELD standards should be:

- Based on theory, research, and best practice
- Understandable, usable, and easily transferrable to classroom curriculum and instruction for ELD
- Meaningful and coherent
- Include an appropriate level of specificity/granularity and examples
- Rigorous

- Concise and measurable
- Reflect horizontal and vertical alignment

An analysis of the CCSS for ELA to help develop the process for writing the ELD standards was conducted by WestEd. This analysis identified the areas where there is correspondence between ELA and ELD standards and where the standards might be specific to ELs. The questions that were considered during the analysis included:

- Which skills are specific to ELA?
- Which skills are specific to ELD?
- Which skills are the same for ELA and ELD? Of these, which may need tailored instruction for older ELs at lower levels of literacy or English language proficiency?

The results of the analysis were presented to the panel of experts at this meeting. The analysis results, ELD and ELA: Correspondence of Strands, is located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

Initial drafts of the ELD standards template and draft standards were also presented to the panel of experts at the April 30–May 1 meeting. The initial draft template focused primarily on the academic vocabulary and academic grammar and discourse dimensions of English language development. The draft template, California's Next-Generation ELD Standards Template, is located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

Draft sample standards for grades 3 and 11–12 were reviewed and discussed. Discussion with the CDE and the panel of experts identified strengths and weaknesses in the template and the approach. The strengths included: adherence to the guiding principles, focus on language functions, and clear alignment to the CCSS for ELA. The weaknesses identified were the lack of clarity on proficiency levels and lack of focus on context. WestEd revised the template to address the suggestions from the panel of experts and CDE; and to ensure that the standards are accessible, easily interpreted, and provide varying levels of detail for designing instruction and assessment materials. The Grade 3 and Grades 11–12 ELD Standards Drafts are located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

May 21–22 Panel of Experts Meeting

During the May 21–22 meeting the revised ELD standards template and sample standards were presented and discussed. An initial discussion about the proficiency levels descriptors(PLDs) was also conducted. A presentation was made by WestEd.

The WestEd presentation, California's Next-Generation English Language Development Standards, is located on the CDE ELD Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

The revised draft ELD standards template was presented to the panel of experts at this meeting. The major changes to the draft template included:

- A single ELD standard for each grade
- Identification of "big ideas" for each student
- Identification of critical academic language functions
- Descriptors of knowledge and skills by proficiency level for each standard
- Focus on texts and discourse in context
- Identification of specific CCCS for ELA that correspond to each ELD standard

The revised template, California's Next Generation English Language Development Standards Template/Shell for Writers, is located on the CDE ELD Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

The second draft ELD sample standards for grades 3 and 9–10 were also presented in the revised template. The Grade 3 and Grades 9–10 ELD Standards Drafts are located on the CDE ELD Standards Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

The panel of experts also discussed the PLDs at the May 21–22 meeting. Inherent in the standards development process is the understanding that the PLDs represent a continuum of growth and development of English as a new language. The PLDs identify three major stages along this continuum: beginning, intermediate, and advanced. The development of the PLDs will take place through three distinct phases:

- **Phase I**: The ELD standards proficiency levels are still being explored and two core questions are addressed: (1) How do we capture the proficiency goals in language that are meaningful and understandable? and (2) What is the fundamental relation of the current proficiency levels to the new levels?

- **Phase II**: Through the standards drafting process, the characteristics related to proficiency levels are extrapolated and used to refine the descriptors from Phase I.

- **Phase III**: The PLDs developed in Phase II are further refined through comments and feedback from the CDE and the panel of experts.

The May 21–22 meeting focused on Phase I of the PLD development process, and multiple versions of how the new levels map onto the current levels were also discussed.

June 21–22 Panel of Experts Meeting

During the June 21 and 22 meeting, the panel of experts reviewed and discussed the third review of the ELD standards and template; Phases II and III of the development of the PLDs; and the vertical and horizontal alignment across the standards. The third draft ELD standards, template, and additional meeting documents are located on the CDE ELD Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

After the draft standards are completed, they will be made available for public comment and posted on the CDE Web site. Public hearings on July 24 and 26 will be conducted to receive public input on the draft standards. Public input from the hearings may guide further revisions to the draft standards.

The panel of experts will convene one last time for one day on August 22 to review the final draft of the standards, discuss the validity of the standards, and debrief on the standards development process. All of the documents for this meeting will be posted on the CDE ELD Web page at http://www.cde.ca.gov/sp/el/er/eldstandards.asp.

Upon receiving the SSPI-recommended ELD standards by August 31, 2012, the SBE must adopt, revise, or reject the standards by September 30, 2012. If the SBE finds a need for modifications to the standards, the timeline for action by the SBE is extended to November 15, 2012.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

May 2012: The CDE presented a summary of the key activities regarding the revision of the ELD standards, including a summary of the results of the focus groups and the panel of experts selection process.

March 2012: The CDE presented the timeline and provided a summary of the key activities regarding updating, revision, and alignment of the ELD standards to the SBE-adopted CCSS for ELA.

October 2011: Governor Edmund G. Brown, Jr. signed AB 124 (Chapter 605, Statutes of 2011).

August 2010: Pursuant to SBX5 1 (Chapter 2, Statutes of 2011), the SBE adopted the academic content standards in ELA and mathematics as proposed by the California Academic Content Standards Commission.

July 1999: The SBE adopted the ELD standards for California public schools.

FISCAL ANALYSIS (AS APPROPRIATE)

$200,000 in Title I local assistance carryover funds will be used for costs incurred by the CDE.

ATTACHMENT(S)

None.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 4

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Update on the Activities of the California Department of Education Regarding the Development of the Superintendent's Recommendations on the Future Assessment System in California, Including, but Not Limited to, the Specific Categories of Measurement and Content and Design.	☐ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

California *Education Code* (*EC*) Section 60604.5 requires the State Superintendent of Public Instruction (SSPI) to develop recommendations, including a plan to transition to a new system, for the reauthorization of the statewide pupil assessment system. *EC* Section 60604.5 also requires that the SSPI consult with the State Board of Education (SBE) as well as specific stakeholders in developing the SSPI recommendations and requires that the recommendations consider 16 specific areas outlined in statute. This agenda item is the third in a series of regular updates to the SBE to gather feedback from SBE members as well as the public and will cover 11 of the 16 areas.

The California Department of Education (CDE) is providing the SBE an update on the discussions regarding the reauthorization of the statewide assessment system, including, but not limited to, the categories of measurement and content and design. This update is to include input from a variety of avenues involving key stakeholders: 1) SSPI Work Group established to provide consultation; 2) members of the public through the regional meetings; 3) an online survey; and 4) an e-mail account posted on the CDE Web page at http://www.cde.ca.gov/ta/tg/sa/ab250.asp. Additionally, the update will include the Work Group discussions regarding the purposes of a future assessment system. These suggestions, and future input and suggestions, will provide the SSPI with information to assist in the development of recommendations pertaining to the reauthorization of the statewide pupil assessment system, including a plan to transition to high-quality assessments, which are due to the Legislature in fall 2012.

RECOMMENDATION

The CDE recommends that the SBE engage in continued discussions regarding the reauthorization of the statewide pupil assessment system.

BRIEF HISTORY OF KEY ISSUES

Several developments related to assessment have taken place over the past two years. The SBE adopted the Common Core State Standards (CCSS) for English–language arts (ELA) and mathematics in August 2010. California joined the SMARTER Balanced Assessment Consortium (SBAC) in June 2011, which supports the development of assessments based on the CCSS ELA and mathematics for grades three through eight and grade eleven. In October 2011, Assembly Bill (AB) 250 (Chapter 608, Statutes of 2011) was chaptered into law. California's future assessment system, begun through the SBAC process, will be further defined through the reauthorization of the statewide pupil assessment system.

AB 250 modified *EC* Section 60604.5 to clarify the legislative intent that the reauthorization of the statewide pupil assessment system conform to assessment requirements of any reauthorization of the Elementary and Secondary Education Act (ESEA) or any other federal law that effectively replaces ESEA include alignment with the CCSS and implement common assessments developed by a state collaborative.

Over the past several months, the CDE, the SBE, educational stakeholders, technical experts, and members of the public have been engaged in various discussions about the future of the assessment system in California. The CDE developed a Reauthorization of California's Statewide Pupil Assessment System Outreach Plan (see Attachment 2) that describes the activities created to provide opportunities for public input. The Outreach Plan is available on the CDE Reauthorization Web page at: http://www.cde.ca.gov/ta/tg/sa/ab250.asp. To date, four of the five Work Group meetings (in March, April, May 2012, and June 2012) and all five regional public meetings have taken place. The first Work Group meeting was held March 21–22, 2012 and an update and meeting materials were provided to the SBE at its May 2012 meeting. The second Work Group meeting was held April 17–18, 2012; the third was held May 22–23, 2012; and the fourth was held June 12–14, 2012. Agendas and presentations from these meetings are available on the CDE Reauthorization Web page at http://www.cde.ca.gov/ta/tg/sa/ab250.asp. A summary of discussions from the May and June 2012 Work Group meetings and the regional public meetings will be provided in an Item Addendum (See Attachment 4). The summary is to include, but not be limited to, input and suggestions regarding the categories of measurement of pupil achievement and content and design from the Work Group and members of the public through the regional meetings. Work Group members received digests regarding the areas of consideration (see Attachment 3) to inform their discussions. The digests included guiding questions, background information, and resources. Work Group members were able to add additional questions to cover areas they felt were critical to the conversation within each digest. Additionally, CDE staff presented to the Technical Advisory Group (TAG) on the suggestions regarding the measurement category. TAG members discussed the suggestions and offered feedback.

Further, as an activity, Work Group members constructed purposes for the future statewide assessment system. This activity was one of the first completed as all

meeting discussions connect back to the purposes of the system. Upon offering a suggestion, Work Group members were asked to link the suggestion to one or more purposes. This activity has been integrated into each of the Work Group meetings as the members provide further input and suggestions.

The following purposes were offered by Work Group members, and are not listed in any priority order. The SBE members might want to consider how these purposes correspond with California's current system:

1. Improve teaching and learning by including a variety of valid types of assessments that model and promote high-quality teaching and student learning (e.g., integrate knowledge and skills, require deep understanding, are engaging and motivating, involve authentic tasks, promote collaboration).

2. Produce efficient and meaningful information that can be used to inform decisions related to high school graduation, postsecondary admissions and placement, and employment.

3. Generate valid and timely results that can be used to:

   - Yield understandable and valuable information for the public, parents and students, educators, and those making decisions about policies, program effectiveness, and the allocation of resources.

   - Determine how all students and subgroups are doing in comparison to themselves and to students in other school districts, states, the nation, and internationally, at a point in time and over time.

   - Determine if English learners are on track to achieving the academic standards, including the use of primary content, English proficiency, or primary language assessments.

   - Determine if students with disabilities are on track to achieving the academic standards, using the primary content or alternate assessments.

4. Promote the use of appropriate technology to produce understandable results, more authentic assessment, and an enhanced statewide technology infrastructure.

The following table provides the suggestions that were captured in statewide conversations regarding the measurement of pupil achievement and content and design categories. Measurement of pupil achievement and content and design discussion questions regarding these suggestions can be found in Attachment 1.

Suggestions From Statewide Conversations

Measurement of Pupil Achievement	• Consider multiple purposes and audiences when measuring growth • Explore the use of matrix sampling at some grade levels and content areas
Content and Design	• Examine the role of diagnostic, formative, and interim assessments within the statewide assessment system • Explore the placement of various types of items, including but not limited to, open-ended response and performance-based tasks • Consider including assessments in science and history-social science • Consider the unique needs of students with disabilities and English learners in the design of the statewide assessment system

In addition to input gained from the public at regional meetings and Work Group meetings, CDE staff have developed an e-mail account (reauthorization@cde.ca.gov), an assessment reauthorization survey, and will conduct focus groups in summer 2012. These avenues provide further opportunity for the public, educators, parents, students, and business leaders to engage in the reauthorization process.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

EC Section 60604.5 requires the SSPI to develop recommendations for the reauthorization of the statewide pupil assessment program, which includes a plan for transitioning to a system of high-quality assessments as defined in *EC* Section 60603. While the law specifically addresses the current Standardized Testing and Reporting (STAR) Program, the CDE's position is that it is appropriate to consider other current California statewide assessments, including, but not limited to, the Early Assessment Program, which utilizes specific STAR assessments, and the California High School Exit Examination.

May 2012: At its May meeting, the SBE received an update regarding the AB 250 Work Group members and a summary of the March and April 2012 Work Group meetings and the regional public meetings.

March 2012: At its March meeting, the SBE received an update regarding the selection of the AB 250 Work Group members and dates and locations for the Work Group meetings and other public meetings.

January 2012: The requirements pursuant to *EC* Section 60604.5 to develop the SSPI's recommendations, including a plan for transition, for the reauthorization of the statewide pupil assessment system and proposed activities were provided to the SBE.

June 2011: Governor Edmund G. Brown, Jr., SSPI Tom Torlakson, and SBE President Michael Kirst signed the memorandum of understanding for California's participation as a governing state in the SBAC. California was previously a participating state in the Partnership for the Assessment of Readiness for College and Careers.

August 2010: Pursuant to *EC* Section 60605.8, the SBE adopted the academic content standards for English–language arts and mathematics as proposed by the California Academic Content Standards Commission (ACSC). The standards include the CCSS and specific additional standards that the ACSC deemed necessary to maintain the integrity and rigor of California's already high standards.

FISCAL ANALYSIS (AS APPROPRIATE)

The activities to develop the recommendations, including a plan for transitioning to a high-quality assessment system, will cost approximately $150,000. The activities are being implemented through the Communications contract using state and federal local assistance funds.

ATTACHMENT(S)

Attachment 1: Measurement of Pupil Achievement and Content and Design Discussion Questions (1 page)

Attachment 2: Reauthorization of California's Statewide Pupil Assessment System Outreach Plan (4 pages)

Attachment 3: Digests Regarding the Areas of Consideration (30 pages)

Attachment 4: Summary of discussions from the May and June 2012 Work Group meetings and the regional public meetings will be provided in an Item Addendum.

Measurement of Pupil Achievement and Content and Design Discussion Questions

Measurement of Pupil Achievement

- What purpose(s) should measuring growth (individual and/or group) serve?
- Which content area(s) should individual pupil growth be measured on an annual basis in California?
- At which grade levels and content areas should matrix sampling be considered?
- What are the benefits of matrix sampling?

Content and Design

- What should be the role of diagnostic, formative, and interim assessment within the statewide assessment system? Which grade levels and content areas?
- What roles should the state, county, and local educational agencies have in providing formative assessment practices and tools? What about interim assessment? What about diagnostic assessment?
- Assessments can include various item types including, but not limited to, multiple choice, constructed response, performance-based tasks. To what degree do you feel each of these should be included in the statewide assessment system?
    - What are the implications?
- How often should science and history–social science be assessed?
    - At which grades and content areas?
- What are some of the unique needs of students with disabilities and English learners that should be considered in the design of the statewide assessment system?

Reauthorization of California's Statewide Pupil Assessment System Outreach Plan

The California Department of Education (CDE) is providing members of the public multiple opportunities through various avenues to provide input and suggestions regarding the reauthorization of California's statewide pupil assessment system. These avenues include:

- Statewide Assessment Reauthorization Work Group meetings
- Regional meetings
- A reauthorization e-mail account
- Focus groups
- A feedback survey

Below are descriptions of the purpose and structure of each avenue.

Statewide Assessment Reauthorization Work Group Meetings

A key requirement of California *Education Code* Section 60604.5 is that the State Superintendent of Public Instruction (SSPI) consult with specific stakeholders outlined in statute when developing recommendations for the reauthorization. To facilitate that consultation, the CDE has formed a Statewide Assessment Reauthorization Work Group, composed of the following stakeholders:

- The State Board of Education
- The committee advising the SSPI on the Academic Performance Index
- Measurement experts from California's public and private universities
- Individuals with expertise in assessing students with disabilities and English learners
- Teachers, administrators, and governing board members from California's local educational agencies
- Parents

The purpose of the Work Group is for members to apply their professional expertise and perspective while providing input and suggestions regarding the reauthorization of the statewide pupil assessment system. Five Work Group meetings are being held between March and September 2012. The meetings also allow members of the general public multiple opportunities to provide input on and suggestions for the reauthorization of the statewide assessment system. Typically, those opportunities follow either a presentation or a large- or small-group discussion. Work Group members received digests regarding the areas of consideration to inform their discussions regarding the areas of consideration. The digests include guiding questions, background information, and resources.

Below are the Work Group meeting dates with a list of topics:

March 21-22, 2012

- Current Assessment System
- Update on the Elementary and Secondary Education Act
- Transitioning to New Assessments
- Statewide Assessment Reauthorization Overview
- Next Generation Science Standards Update
- English Language Development Standards Update

April 17-18, 2012

- Conceptual Framework
- Measurement Areas of Consideration

May 22-23, 2012

- Types of Assessments
- Types of Items
- Content and Design Areas of Consideration

June 12-14, 2012

- Minimizing Testing Time
- Test Administration and Scoring Technologies
- Formative Assessment Practices and Tools
- Assessment System K–12

July 25-26, 2012

- Review suggestions regarding areas of consideration
- Consider transition plan components and implementation

September 2012 – Date to be determined

Regional Meetings

The CDE has held regional public meetings throughout the state designed specifically to provide reauthorization information to the public and give the public the opportunity to provide input and suggestions. Five regional meetings were held at county offices of education during April and May 2012 at the following locations:

- Sacramento County Office of Education (COE)
- Fresno COE
- San Diego COE
- Orange County Department of Education
- Contra Costa COE

CDE staff provided a Reauthorization Overview presentation at the beginning of each meeting. Following that presentation, members of the public were given the opportunity

to provide comments and/or suggestions. San Joaquin County COE provided written summaries to the CDE.

Reauthorization E-mail Account

The Assessment Development and Administration Division (ADAD) has created a reauthorization e-mail account as an additional avenue for members of the general public to provide input and comments on the reauthorization of the statewide pupil assessment system. The comments received through the e-mail account will be incorporated into the final public comment summary as one component of the final report. The reauthorization e-mail account is provided to the public through the regional meetings and Work Group meetings. It also will be used to distribute a feedback survey (see "Feedback Survey," p. 3) to multiple e-mail distribution groups (Listservs). The e-mail link will be hosted on the Reauthorization Web page at http://www.cde.ca.gov/ta/tg/sa/ab250.asp.

Focus Groups

The CDE will host multiple focus groups during summer 2012 at the Los Angeles COE and the Sacramento COE. The focus groups will be divided into the following groups:

- Business roundtable
- Teachers/administrators
- Parents/high school students

Each group will consist of 12–15 participants. Each focus group will reflect on essentially the same questions and/or topics. The questions will vary slightly, depending on the group (e.g., parents, teachers, students, etc.). Teachers will receive a stipend if they are off track; if they are on track, substitute costs will be taken care of. San Joaquin COE staff will facilitate the focus groups and provide a summary of comments to the CDE.

Additional focus groups will be held in late summer 2012 at the Sacramento COE and will include teachers of English–language arts (ELA) and mathematics and higher education faculty from the California Community Colleges, California State University, and University of California. The ELA and mathematics teachers will discuss one particular area of consideration in statute: aligning the assessments to the standards adopted or revised pursuant to *EC* Section 60605.8. The purpose of the involvement of higher education faculty will be to gain the faculty perspective on college and career readiness as it relates to postsecondary education and the reauthorization of the statewide assessment system.

To recruit focus group participants, CDE and San Joaquin COE staff will work with a variety of organizations.

Feedback Survey

The ADAD, in conjunction with San Joaquin COE, has created an online survey for members of the public to provide feedback on the reauthorization of the statewide assessment system. A link to the survey will be sent to multiple Listservs to promote maximum participation. In addition to inviting recipients' feedback, the CDE will encourage recipients to forward the Web site link to others they think may be interested in providing feedback. The survey link also will be housed on the CDE Statewide Assessment Reauthorization Web page at http://www.cde.ca.gov/ta/tg/sa/ab250.asp.

Expectations

ADAD staff expects a wealth of information from the Statewide Assessment Reauthorization Work Group meetings, regional public meetings, feedback survey, and focus groups. The Work Group's suggestions and input will be specific to the purposes of the assessment system, the content and grades tested, and the 16 areas of consideration. The regional public meetings offer the public opportunity to provide input on all areas regarding the reauthorization of the statewide assessment system. The survey and focus groups will concentrate on specific questions regarding reauthorization.

The depth and breadth of information gathered overall will depend on the collection method (i.e., work group meeting, regional meeting, survey, or focus group). The information gathered will be synthesized and analyzed to provide information for the final report, including a transition plan, to the SSPI to assist in the development of his recommendations.

Digests Regarding the Areas of Consideration

California *Education Code* Section 60604.5 directs the State Superintendent of Public Instruction to provide recommendations for the reauthorization of the statewide pupil assessment system that includes a plan for transitioning to a system of high-quality assessments. The bill identifies 16 considerations that are to be included in the plan. For the purpose of discussion, the considerations were organized into bundles, or categories.

Category	Areas of Considerations
CCSS ESEA Reauthorization	1) Aligning the assessments to the standards adopted or revised pursuant to Section 60605.8 (California's Common Core Content Standards, including additional California standards) [*EC* Section 60604.5 (a)(1)]
	2) Implementing and incorporating any common assessments aligned with the common set of standards developed by the Common Core State Standards Initiative consortium or other interstate collaboration in which the state participates.
	3) Conforming to the assessment requirements of any reauthorization of the federal Elementary and Secondary Education Act (20 *U.S.C.* Sec. 6301 et seq.) or any other federal law that effectively replaces that act.
Measurement of Pupil Achievement	4) Enabling the valid, reliable, and fair measurement of achievement at a point in time and over time for groups and subgroups of pupils, and for individual pupils.
	5) Allowing the comparison from one year to the next of an individual pupil's scale score in each content area tested, so as to reflect the growth in that pupil's actual scores over time.
	6) Enabling and including the valid, reliable, and fair measurement of achievement of all pupils, including pupils with disabilities and English learners.
	7) Providing for the assessment of English learners using primary language assessments.
	8) Ensuring that no aspect of the system creates any bias with respect to race, ethnicity, culture, religion, gender, or sexual orientation.
	10) Generating multiple measures of pupil achievement, which, when combined with other measures, can be used to determine the effectiveness of instruction and the extent of learning.
Content and Design	9) Incorporating a variety of item types and formats, including, but not limited to, open-ended responses and performance-based tasks.
	11) Including the assessment of science and history-social science in all grade levels at or above grade 4.
	12) Assessing a pupil's understanding of and ability to use the technology necessary for success in the 21st century classroom and workplace.
	13) Providing for both formative and interim assessments, as those terms are defined in this chapter, in order to provide timely feedback for purposes of continually adjusting instruction to improve learning.
	16) Including options for diagnostic assessments for pupils in grade 2.
Results for Diverse Purposes	14) Making use of test administration and scoring technologies that will allow the return of test results to parents and teachers as soon as is possible in order to support instructional improvement.
	15) Minimizing testing time while not jeopardizing the validity, reliability, fairness, or instructional usefulness of the assessment results.

4) Enabling the valid, reliable, and fair measurement of achievement at a point in time and over time for groups and subgroups of pupils, and for individual pupils

Guiding Questions

1. For which subject areas should individual achievement be measured on an annual basis in California?
2. How accurate does the measurement of achievement need to be?
3. How reliable should reported sub-scales be?
4. How much time should pupils spend testing for the purpose of measuring individual pupil achievement?

Background

This consideration brings up several important measurement concepts and specifies that the assessment system must measure both the level of attainment of a student as well as growth over time.

The concept of ***validity*** is inextricably tied to the purpose of the test. In general, validity is the idea that a test measures what it is supposed to measure and that the resultant measurements will be used for the appropriate purpose, implying that the test is to measure a student's performance along a continuum of performance and that change in the level of performance over time can be evaluated. Validity generally is evaluated in terms of (1) content validity—the test measures the intended knowledge and skills; (2) concurrent validity—measures generated by the test agree with measures made by other tests designed to measure the same content; (3) predictive validity—results on the test are reasonably able to predict future performance; and (4) consequential validity—the degree to which the use of test results lead to consequences of the type intended (e.g., enhancing instruction and learning vs. limiting the curriculum or degrading instruction). All of the steps in the testing process from the creation of the test blueprint to the eventual impact on students and schools provide evidence of the validity of the test.

Reliability means that the test consistently measures student performance. It is often thought to reflect the accuracy of the assessment. Generally, reliability is a function of test length—the longer the test, the greater the reliability. Accuracy also is a function of test length. This is because a longer test implies a larger sampling of student performance, which minimizes error.

At least two types of error affect the accuracy and reliability of a test:

1. Specification error. This type of error refers to the degree to which a test is used for purposes that it was not designed to support.

2. Measurement error. Tests effectively sample from the total knowledge base students are expected to learn to produce an estimate of performance. The longer the test, the less measurement error and the greater the reliability of the test.

Fairness in testing generally centers on the concepts of opportunity to learn and the ability of all students to meaningfully participate in the assessment (accessibility). In addition, a test should not present barriers to a student's ability to demonstrate what he or she knows. Students with disabilities and English learner students may require accessibility tools to ensure that they can meaningfully participate in the assessment.

Construction of valid, fair and reliable measures requires different considerations depending on the purpose of the assessment. If the results of a test are to be used only for school and district accountability, but not for decisions about individual pupils, it may not be necessary for all students in a given grade to be tested on the same material. However if individual pupil achievement is the target for measurement, equity demands all student in a given grade and domain take equivalent tests for the portion which makes up an individual student's score.

Another factor affecting validity, reliability, and fairness is the way in which the assessment process is carried out. Security of the test questions and standardization of the administration of the tests are very important when accountability or student evaluations are among the purposes of the test. Administration conditions need to be as standardized as possible to insure fair comparisons. Students cannot have advance access to questions, or have improper supports available during a test (e.g., multiplication tables posted in a room where testing is taking place.)

Where individual scores are produced, aggregation to the group level can be easily accomplished and reported. Comparisons will be valid and reliable as long as a reasonable minimum group size is applied.

Some of the most difficult considerations in developing achievement tests is deciding which domains or areas of the curriculum to assess, and the breadth and depth of measurement for each domain. Achievement tests often report sub-scales (sub-scores or cluster scores) within a given domain. The selection of areas for reporting sub-scores is an important decision affecting test length, as each sub-scale reported will require a minimum number of items if it is to be reliable.

Resources

- CST and CAPA Alignment Study.
  http://www.cde.ca.gov/ta/tg/sr/documents/alignmentreport.pdf

- STAR Test Blueprints and Technical Reports.
  http://www.cde.ca.gov/ta/tg/sr/resources.asp.

5) Allowing the comparison from one year to the next of an individual pupil's scale scores in each content area tested, so as to reflect the growth in that pupil's actual scores over time

Guiding Questions

1. For which subject areas should individual pupil growth be measured on an annual basis in California?
2. How accurate does the measurement of growth need to be?
3. If sub-scales are reported, should the sub-scales be articulated across grades to allow growth comparisons?
4. How much time should pupils spend testing for the purpose of measuring growth?
5. Is it realistic to expect a single scale to cover nine grades as in English language arts?
6. Is it realistic to measure growth for high school courses in science and mathematics?

Background

Currently, it is not possible to directly compare results from grade to grade on the academic tests used in California. Each grade-level test has its own scale based on the content to be assessed. The performance levels are the main link between the grade-level tests. All the scales are developed with the basic and proficient cut scores defined as 300 and 350, respectively. The scale scores give a relative idea of where a student's performance lies relative to the criteria set for a given grade.

Consideration number 5 seems to call for the development of a continuous scale across grades. It is possible to develop continuous scales, but the methods do not yield a continuous measurement with equal units of consistent meaning. This is because the curriculum in each grade contains some blocks of content that are wholly new and are not directly linked to previous grades. This is true for all test formats including computer adaptive testing.

Why do we want to be able to compare scale scores directly from year to year? The answer to this question is central to the design of an assessment system that seeks to measure academic growth. Robert Smith and Wendy Yen from Educational Testing Service conducted a study in 2005 to determine what parents, teachers, and administrators want regarding the measurement of growth. The results of that study show that those groups wanted information that was both normative (how the student is progressing relative to other students) and absolute (how the student is progressing relative to the definition of proficient). Their findings are summarized below.

Parents wanted to know:

- Is my child making a year's work of progress in a year?
- Is my child growing appropriately toward meeting state standards?
- How far away is my child from becoming proficient?
- Is my child growing as much in English–language arts as in mathematics?
- Did my child grow as much this year as last year?
- Is child A growing as much as child B, who is in a different grade?

Teachers wanted to know:

- Did my students grow appropriately toward meeting state standards?
- How close are my students to becoming proficient?
- Are there students with unusually low growth who deserve special attention?

Administrators wanted to know:

- Did my students grow appropriately toward meeting state standards?
- How close are our students to becoming proficient?
- Does this school or program show as much growth as another school or program?
- Does this district show as much growth as the state?
- Can measure the growth of students even if they do not change proficiency classifications from one year to the next?
- Can I pool together results from different grades to draw summary conclusions?

Despite the known limitations of growth scales, several approaches have been developed. These include vertical scales, scales based on normative information, and growth scales.

In a vertical scale, scale scores are produced that run continuously from the lowest grade to the highest grade, with substantial overlap of the scale scores produced at adjacent grades. The goal is to have scale scores obtained from different test levels that have the same meaning (a 500 means the same thing if obtained from the grade-four test or the grade-five test). Vertical scales are most commonly built by linking tests in adjacent grades using item response theory (IRT). If a vertical scale is built to span tests administered in grades two through eleven, this would imply a progression of learning throughout this range of grades that is specified in the curriculum. Vertical scales are attractive for the measurement of growth because they appear to put all students from kindergarten through grade twelve on the same continuous "yardstick."

Computer adaptive testing like that intended for the SBAC assessments provides a means of giving students a test that employs a vertical scale that spans several grades but does not require the student to respond to every question. This allows more accurate estimation of a student's position along a growth continuum.

Another way to create a growth scale is to base it on normative information. This approach presents the scale as a measure of where a given student's performance is relative to other students in the same grade. This is done by converting students' scores to percentiles. Growth is measured in terms of how the student progressed relative to other students. For example, we could say that student A gained 10 percentile points from grade three to grade four while student B lost 10 percentile points. This type of growth is, of course, not absolute and is only a measure of the relative progress of different students. This type of measure can tell us how students are progressing toward proficiency or whether a student gained, lost, or remained the same in his or her standing from one year to another.

A third means to a growth scale is to combine scale score information in a grade with information provided by performance standards. Texas, for example, uses a system in which the score on a continuous scale is determined by the grade level the student is in and his or her performance on the grade-level test. In each grade, the standard for proficient is used to anchor the scale as done in California. The score for proficient is 70. The IRT procedure gives each student a scale score relative to 70. Then, to make the scale "continuous," a third digit representing the grade is added to the score. Hence a "just barely" proficient student in grade three has a score of 370, a "just barely" proficient student in grade four has a score of 470, and so forth. This is not a true interval scale but it can be used to judge student growth against the idea that one year of progress is equal to 100 points on the scale. It also can be used as an indicator of how much the student's score needs to improve in order to reach proficient in a subsequent grade.

Another option for measuring growth is to admit that the curriculum is not continuous across all grades and that growth can be measured only in a single grade or across a limited grade span. A typical method used in classrooms is to use a pre-test and a post-test that cover the same material to judge how much a student has learned. Pre-test / post-test measures provide the cleanest approach to the measurement of growth. There is no doubt that the growth being measured is on the same construct, and the meaning of the measurement is clear. Growth is measured over each desired interval (say, each year) and can be used for accountability purposes as well as assessing student progress. The main drawback of this approach is that it gives growth only for the period over which the measurements are made. The second drawback is that the approach requires more testing time.

An extension of this model is to use the same test over several grades. For example, a test of reading comprehension could be developed to incorporate the range of skill in reading expected for students in grades three through six. The student would take the same test (or parallel forms of the test) each year. The scores would be directly comparable and the growth in each year could be reported. Students would start on a new test series in grade seven that reflects the expectations of the next several grades.

Resource

- Yen W. M. *(2008). Measuring academic growth in California.* Princeton, NJ: ETS.

6) Enabling and including the valid, reliable, and fair measurement of achievement of all pupils, including pupils with disabilities and English learners

Guiding Questions

1. What kind of statement does the panel want to make with regard to the testing of English learners and students with disabilities?
2. What features should the California assessment system possess to insure the fair and accurate assessment of English-learners and students with disabilities?

Background

The main issue in testing students with disabilities (SWDs) and English learners (ELs) is accessibility. “Accessibility” means that the test is designed so as to minimize unnecessary complexity. Universal access is the goal, and a set of principles known as Universal Design Practices (UDP) are used to guide test development. Universal Design helps all students equally by avoiding unnecessary barriers to understanding. Accessibility is not intended to make the test easier for SWDs and ELs.

In addition to the application of UDP, accommodations, modifications, and variations are used to level the playing field for students with specific needs. The major challenge (i.e., in test development and administration) is to improve accessibility and maintain comparability. For example, large print makes the test accessible to students with visual problems without changing the content or difficulty of the test.

Sometimes accommodations, modifications, and variations do more than level the playing field. For example, allowing students with disabilities to use a calculator on a test in which students without disabilities are not allowed to use a calculator can make certain mathematics items and the test itself easier for students with disabilities. In such a case, a separate scale can be developed (i.e., for the students who use a calculator) that adjusts for the change in difficulty. In some cases modifications so change the construct being measured that results cannot be compared to those of students that do not receive the modification. A common example is hearing a reading passage read aloud on a reading test.

Resource

- National Center on Universal Design for Learning: http://www.udlcenter.org/

7) Providing for the assessment of English learners using primary language assessments

Guiding Questions

1. For which subjects and grade levels should the primary language tests be offered?
2. For what should the primary language tests be used?
3. In which languages should the tests be developed?
4. Should the tests be translated, transadapted, or developed in the primary language?

Background

EC sections 60640(f) and 60640(g) stipulate two groups of English learners who take the primary language tests, if available, in addition to the CSTs or the California Modified Assessment (CMA)—required and optional:

- **Required.** *EC* Section 60640(g) requires that English learners who either (a) receive instruction in their primary language or (b) have been enrolled in a school in the U.S. less than 12 months be administered a test in their primary language, if available.

- **Optional.** *EC* Section 60640(f) states that local educational agencies also have the option of testing all English learners not required to be tested with the primary language test, if available in their primary language.

Key Facts About the Standards Test in Spanish (STS)

Historically, two types of primary language tests have been used in the Standardized Testing and Reporting (STAR) Program: designated primary language tests (e.g., SABE/3 and Aprenda 3) and standards-based primary language tests (i.e., the STS). Subjects and grades currently assessed by the STS are as follows:

Subject	Grades Tested
Reading/language arts (grade level)	Grades two through eleven
Mathematics (grade level)	Grades two through seven
Algebra I (end of course)	Grade seven through eleven
Geometry (end of course)	Grade eight through eleven

- In 2011, approximately 41,876 (approximately 1%) of students taking the CST also took either the reading/language arts or the mathematics portion of the STS.

- Spanish is the only language for which a primary language test has been designated.
- Students who take the STS must also take the grade-level CSTs and/or the CMA; STS results are not used for state or federal accountability purposes.
- Although STS tests share the same test blueprint with the CSTs, they follow an independent procedure for test development and establishment of proficiency levels; therefore, comparison between CST and STS test results is discouraged.
- The STS and CST test development teams work very closely together to ensure consistency, comparability, and rigor.

About English Learners in California:

- Sixty different languages are spoken by English learners in California.
- The top ten languages spoken in California by the percent of total English learners are as follows:
    1. Spanish – 82.7%
    2. Vietnamese – 2.7%
    3. Cantonese – 1.7%
    4. Filipino or Tagalog – 1.6%
    5. Hmong – 1.2%
    6. Mandarin – 1.2%
    7. Korean – 1%
    8. Other non-English languages – 1%
    9. Arabic – .9%
    10. Punjabi – .7%
- American Sign Language is the primary language for .02% of students in California.
- "Transadaptation," a combination of translation and adaptation, is a process of adapting the content in an assessment to account for cultural and linguistic differences between two languages (Zucker et al., 2005).

Resources

- Garcia, Ofelia*. Bilingual Education in the 21st Century: A Global Perspective*. John Wiley and Sons: 2011
- SBAC 04: Component 5, *Guidelines for Accessibility for English Language Learners.* http://rre.sagepub.com/content/32/1/292.full.pdf+html.
- STS Blueprints. http://www.cde.ca.gov/ta/tg/sr/stsblueprints.asp.

- STS Technical Reports. http://www.cde.ca.gov/ta/tg/sr/technicalrpts.asp.

- Testing Variations for English Learners (Testing Variations, Accommodations, and Modifications document; page 5; Matrix 2: Administration of California Statewide Assessments for English Learners). http://www.cde.ca.gov/ta/tg/sr/.

- Zucker, Sasha, et al. Transadaptation: Publishing Assessments in World Languages. Pearson Education, Inc. 2005. http://www.pearsonassessments.com/NR/rdonlyres/5D28CC3E-295C-49D0-AD32-3AEF8FD15EC2/0/TransadaptionResPaper.pdf

8) Ensuring that no aspect of the system creates any bias with respect to race, ethnicity, culture, religion, gender, or sexual orientation

Guiding Questions

1. What kind of statement does the panel want to make with regard to cultural bias and sensitivity in testing?

2. What kind of analyses should California require from vendors to assess items for bias and sensitivity?

3. What does the CDE need do to inform the education community and the public at large about steps taken to prevent cultural bias in statewide assessments?

Background

Working to prevent bias is a key element in the test development process. In California, all state-developed assessments—STAR, California High School Exit Examination (CAHSEE), and California English Language Development Test—utilize bias and sensitivity panels to evaluate every new test item. Those panels are made up of educators from a variety of cultural and ethnic backgrounds as well as those who work with English learners and students with disabilities. Panelists examine the items to ensure that the items do not present information that is biased against any group or may be interpreted to reflect negatively on any race, ethnicity, culture, religion, gender, sexual orientation, or age group. The panelists also examine reading passages, writing prompts, and question-and-answer sets for elements that might cause problems for a particular group because of negative associations certain topics have for certain groups. The contexts for questions are closely examined to ensure that all students can relate to the context and that no negative associations result from a passage or question. Age appropriateness is also an element the panelists look for in item reviews.

With respect to English learners, an effort is made through universal design and item review to ensure that the language used in an item does not interfere with the measurement of the underlying content. Referred to as a “language load,” this is

particularly important in mathematics and the sciences, where overly complicated scenarios can get in the way of a student understanding a question that is not inherently language based.

The STAR and CAHSEE assessments go through an additional review to ensure that items do not ask students to reveal personal information about their backgrounds, families, or beliefs. This is the function of the Statewide Pupil Assessment Review Panel, which looks at every new item developed for these assessments.

Statistical tests also are employed to examine field test items for bias. A procedure known as differential item functioning (DIF) is employed to see whether students with the same overall level of achievement from different groups perform differently on a given item. DIF reviews are conducted for gender, race, and ethnicity. When an item is flagged for DIF, reviewers examine the item to see whether there is an obvious source of bias. Generally, items with very strong DIF for a given group will be eliminated from consideration for inclusion in a test. Borderline items may be included after review indicates no obvious source of bias.

Resource

- SBAC Bias and Sensitivity Document. http://www.smarterbalanced.org/wordpress/wp-content/uploads/2012/02/DRAFT%20Bias%20and%20Sensitivity%20Guidelines.pdf

9) Incorporating a variety of item types and formats, including, but not limited to, open- ended responses and performance-based tasks.

Guiding Questions

1. What are some of the advantages and disadvantages of open-ended responses and performance-based tasks?

2. What are some learning outcomes or skills that are best measured with open-ended responses and performance-based tasks?

3. What skills do students need to perform their best on open-ended responses and performance-based tasks?

4. What are the implications for instruction, classroom practices, and professional development if open-ended responses and performance-based tasks are part of the reauthorized state assessment system?

Background

There are three-main categories of items Selected-Response, Constructed-Response, and Performance Task. These item types are used to assess a student's knowledge, skills, and abilities on a specific topic or content area. Each of these items types has some inherent qualities that one should be aware of when making decisions about assessing student knowledge, skills, and abilities.

Selected-Response Items have primary characteristic that the student selects the correct answer from a provided list or options. The most common Selected-Response items are multiple-choice items but selected-response items also include true-false or matching. These items can assess a broad sampling of content, can be scored quickly, and are objectively scored.

Multiple-choice items consist of two types: single-correct answer and multiple-correct answers. Well-written multiple-choice items can assess basic understanding, application to a principle or rule as well as some higher-level thinking such as analysis and evaluation. Advantages to multiple-choice assessments include accuracy, inexpensive, and scoring. Multiple-choice items allow for coverage of many standards in a short time. Some pitfalls to using multiple-choice items include students may get the answer correct by guessing and multiple-choice items do not provide an opportunity for students to show their thinking process used to arrive at that particular option.

Constructed-Response Items allow students to provide their own response to a question or prompt. There are several types of Constructed-Response items: short answer (i.e., one- or two-word or short phrase), long answer (i.e., essay or proofs). The California Standards Test uses this type of item to demonstrate a students' ability to write a coherent essay. Constructed-Response items may take more time for the student to answer, require the development of scoring criteria or rubric, and require the calibration of scorers. Scoring Constructed-Response items requires more time to score compared to Selected-Response items. Constructed-Response items assess a student's basic understanding and application to a principle or rule as well as higher-level thinking: analysis, evaluation, and innovative thinking. The drawback to using Constructed-Response items is that the breadth of content assessed will be limited due to the amount of time needed to administer and score the items. Finally, the process of scoring a Constructed-Response item is more subjective than Selected-Response items therefore, decreasing the reliability of the item and the test.

Performance Tasks prompt a student to complete a body of work (i.e., a finished product), for example writing an essay, presenting a speech, or solving a real-world problem. A Performance Task provides several stimuli for the student to process and formulate a response to the prompt(s). Similar to Constructed-Response items, a Performance Task will take more time for the student to produce final product, require the development of scoring criteria or rubric, and require the calibration of scorers. A Performance Task assesses a student's ability to filter, analyze, and evaluate multiple stimuli to formulate a response to the prompt. Disadvantages to using a Performance

Task include the content to be assessed will be limited, the student will need ample time to read, process, and evaluate stimuli, additional time to formulate, prepare response and review response to prompt(s). Scoring the student's response will be time-consuming and is more subjective than Selected-Response items therefore decreasing the reliability of the item and the test.

Standardized Testing and Reporting (STAR) Program

State law (*EC* Section 60640) established the STAR Program, which includes the following tests:

- The California Standards Tests (CSTs), administered in grades two through eleven to measure how well students are achieving the academic content standards.
    - CSTs with multiple choice questions
        - English-language arts (ELA)
        - Mathematics
        - History-Social Science
        - Science
    - Writing CST contains a writing performance task
- The California Modified Assessment (CMA) ELA, mathematics, and science all contain multiple choice questions and the CMA Writing contains a writing performance task.
- The California Alternate Performance Assessment (CAPA) contains multiple-choice questions and performance tasks and uses many manipulatives (i.e., not self-contained). For most questions, students are asked to perform a task.
- The Standards-based Test in Spanish (STS) is administered in Spanish, and all questions are multiple-choice.
- The Early Assessment Program (EAP), a California State University (CSU) test program, includes the following:
    - English–language arts EAP, which contains multiple-choice questions and one writing performance task.
    - Mathematics EAP, which contains multiple-choice questions.

SMARTER Balanced Assessment Consortium (SBAC)

SBAC's focus is on assessing students annually in grades three through eight and grade eleven in English–language arts and mathematics under current federal

requirements. In addition to multiple-choice questions (i.e., selected-response), SBAC assessments will include constructed-response items and performance tasks.

Constructed-responses items require the student to "construct" a response rather than choosing a response from a limited choice of alternatives, as is the case with selected-response items *(Technology and Engineering Literacy Framework for the 2014 NAEP* [National Assessment of Educational Progress]). Two types of constructed-response tasks, short and extended, might be used:

- **Short constructed-response tasks** might be used in either the discrete-item assessment sets or in the scenario-based assessment sets. Examples are:
  - Supplying the correct word, phrase, or quantitative relationship in response to the question given in the item
  - Identifying components or draw an arrow showing causal relationships
  - Illustrating with a brief example
  - Writing a concise explanation for a given situation or result
- **Extended constructed-response tasks** might be used in the long scenario-based assessment sets. In a scenario-based assessment set, the real-world scenario is developed and elaborated upon as the student moves through the assessment set. These could be considered performance tasks. Examples are:
  - Entering a search term to gather information about a famous composer and to request information from virtual team members
  - Varying the size of populations to test a model of a city's transportation system
  - Constructing a wind turbine from a set of virtual components in which there are several combinations of turbine blades and generators

Performance tasks allow students to complete an in-depth project that demonstrates analytical skills and real-world problem solving. SBAC describes performance tasks in the following way:

> Performance tasks challenge students to apply their knowledge and skills to respond to real-world problems. They can best be described as collections of questions and activities that are coherently connected to a single theme or scenario. These activities are meant to measure capacities such as depth of understanding, research skills, and complex analysis, which cannot be adequately assessed with selected- or constructed-response items.

Performance tasks in reading, writing, and mathematics will be part of the SBAC summative, year-end assessment. Performance tasks can also be administered as part of the optional interim assessments throughout the year. Examples include online research, group projects, and presentations. Performance tasks are applicable in all grades being assessed and are evaluated by teachers using consistent scoring rubrics.

The performance tasks will be delivered by computer (but will not be computer adaptive) and will take one to two class periods to complete.

It is critical to be aware of the fact that an 8-point essay does not necessarily provide as much data as eight multiple-choice items. However, if multiple choice is combined with, for example, constructed-response items or performance tasks, the assessment would yield more data about the individual student performance. This combination will be found in the SBAC assessments and is currently found in multiple assessments used in California.

California English Language Development Test (CELDT)

State law *(EC* section 60810) requires the state's school districts to administer a statewide test of English language proficiency to (1) newly enrolled students whose primary language is not English as an initial assessment and (2) students who are English learners as an annual assessment. The CELDT is comprised of performance tasks and multiple choice questions.

California High School Exit Examination (CAHSEE)

State law (*EC* Section 60850) requires every California public school student to pass an examination in order to receive a high school diploma. That required test is the CAHSEE, which all students, except eligible students with disabilities, must pass with other state and local requirements to receive their diploma. The CAHSEE has two parts:

- English–language arts, which contains multiple-choice questions and one writing performance task.
- Mathematics, which contains multiple-choice questions.

Resources

- California Alternate Performance Assessment Sample Tasks
  http://www.startest.org/capa.html
- California English Language Development Test Released Test Questions
  http://www.cde.ca.gov/ta/tg/el/documents/CELDTRTQs1-11updated4-2-12.pdf
- California High School Exit Examination Released Test Questions
  http://www.cde.ca.gov/ta/tg/hs/resources.asp
- California Standards Tests Released Test Questions
  http://www.cde.ca.gov/ta/tg/sr/css05rtq.asp
- Differences Between the California Standards Test and the California Modified Assessment
  http://www.cde.ca.gov/ta/tg/sr/cmastar.asp

- *Smarter Balanced Assessment Consortium*
  http://www.smarterbalanced.org/smarter-balanced-assessments/
- *Technology and Engineering Literacy Framework for the 2014 NAEP,* Chapter 4: Overview of the Assessment Design
  http://www.nagb.org/publications/frameworks/tech2014-framework/ch_4/descriptions.html
- Transitioning to New Assessments (Presentation by Deborah V.H. Sigman)
  http://www.cde.ca.gov/ta/tg/sa/documents/ab250fatov312.pdf

10) Generating multiple measures of pupil achievement, which, when combined with other measures, can be used to determine the effectiveness of instruction and the extent of learning.

Guiding Questions

1. What kind of information should local districts use in combination with scores from state assessments and SBAC for making decisions about student learning? How would this information be reported and used?
2. Should the state collect information directly from schools such as student work samples or on demand assessments?
3. What kind of support should the assessment system provide to help educators select and/or develop additional measures of student achievement?

Background

Multiple measures provide a broader picture of student performance than a single test score provides. Locally, schools have a variety of tools they can use to judge student progress. It is currently up to school districts to choose to use (and pay for) interim assessments. Those assessments can provide information about student performance early in the year, when interventions are most useful.

No decision of import regarding the education of an individual or the performance of a teacher should be based on the results of a single test. Multiple measures improve decision making and reduce the chances that compromised results will have an unfair impact on individuals. This philosophy is reflected in the way multiple sources of information are used when considering the reclassification of English-learner students in California.

Teacher-created assessments can also be used to monitor student progress; however, comparability among teachers can be a problem. To address comparability issues, work sample requirements (assignments), and carefully designed on demand constructed

response items can be developed and distributed by the state with scoring rubrics for use by schools. Items can be scored locally, or by a contractor to the state. Computerized exercises and automated scoring systems make this type of assessment less costly and time consuming now than was the case in the recent past.

SBAC has plans to provide items and test development tools in English–language arts and mathematics. In addition, SBAC will employ the use of performance assessments to enhance the measurement provided by objective tests.

Resources

- SBAC documents
  http://www.smarterbalanced.org/resources-events/publications-resources/

- SBAC FAQs
  http://www.smarterbalanced.org/resources-events/faqs/

- *Standards for Educational and Psychological Testing*
  American Psychological Association, 1986

11) Including the assessment of science and history–social science in all grade levels at or above grade 4.

Guiding Questions

1. How often should science and history–social science be assessed? Why?

2. What are the benefits of additional assessments in science and history–social science?

3. What are the advantages and disadvantages of combining or integrating assessment of reading with science or history–social science?

4. What type of delivery method should be considered for these content area tests?

Background: Science

Currently, the STAR Program includes assessments for science in at least one elementary or middle school grade level selected by the State Board of Education. To meet federal requirements, beginning in 2007–08 annual tests in science have been administered annually in each of three grade spans: grades three through five, six through nine, and ten through twelve. STAR end-of-course (EOC) tests are administered during the STAR testing window, not at the completion of instruction for the course.

CST, CMA, and CAPA assessments for science are administered in grades five, eight, and ten for grade level-science, and the CST EOC assessments are administered in grades nine through eleven. The CST for Science in grade five covers science content

standards for grades four and five.

There are no CMA EOC science assessments; however, students taking the CMA in grades nine through eleven must take the EOC CST for Science if they are taking an applicable science course.

The table below summarizes the current testing requirements for science:

CST	**Grade(s)**
Science (grade-level assessments)	five, eight, and ten
Science (EOC assessments) • Biology • Chemistry • Earth Science • Physics • Integrated/Coordinated Science 1, 2, 3, and 4	nine, ten, or eleven
CMA	**Grades**
Science (grade-level assessments)	five, eight, and ten
CAPA Science / Level	**Grade(s)**
Level I	five, eight, and ten
Level III	five
Level IV	eight
Level V	ten

Next Generation Science Standards

Pursuant to *EC* Section 60605.85, the work of updating the science standards and curriculum was resumed through California's participation in the National Research Council's Next Generation Science Standards state-led project administered by Achieve, Inc. California is one of 26 lead states involved in the development of the Next Generation Science Standards, which will be released in summer 2012. The Next Generation Science Standards are based on *A Framework for K–12 Science Education Practices: Crosscutting Concepts and Core Ideas,* released in July 2011.

***Background: History*–Social Science**

Although federal requirements do not include assessments for history–social science, the STAR Program includes assessments for history–social science in at least one elementary or middle school grade level, selected by the State Board of Education, and for grades nine through eleven although history–social science will not be included in the grade-nine assessment unless the State Board adopts academic content standards for a grade-nine history–social science course.

The CST for History–Social Science in grade eight covers history–social science content standards for grades six, seven, and eight. Currently, instruction in California

history (grade four), civics (grade three), and government (grade twelve) is mandated and is not assessed. Grade-level CSTs for History–Social Science are given in grades eight and eleven, and an EOC CST for World History is given in grade nine, ten, or eleven.

There are no CMA assessments for history social–science. Students taking the CMA in grades eight and eleven must take the grade-level CST for History–Social Science. Students taking the CMA in grades nine through eleven must take the EOC CST for World History if taking a World History course. Eligible CMA students take the grade-level CST and EOC CST for History–Social Science with the appropriate accommodations and/or modifications regularly used in the classroom for instruction and assessment. The table below summarizes the testing for history–social science:

CST	Grade(s)
History–social science (grade-level assessments)	Grades eight and eleven
History–social science (EOC assessment): World History	Grade nine, ten, or eleven

Resources

- *A Framework for K–12 Science Education: Crosscutting Concepts and Core Ideas*
  http://www.nap.edu/catalog.php?record_id=13165
  Released July 19, 2011, this framework by the Committee on Conceptual Framework for the New K–12 Science Education Standards and the National Research Council provides a research-grounded basis for improving science teaching and learning across the country.

- Next Generation Science Standards
  http://www.nextgenscience.org/
  A joint effort between Achieve, the National Science Teachers Association, the American Association for the Advancement of Science, and the National Research Council is underway to create the foundations for all students to receive a solid K–12 science education. Twenty states, including California, are collaborating on the development of the science standards.

- PowerPoint and resources related to the Next Generation Science Standards
  http://www.cde.ca.gov/ta/tg/sa/ab250.asp

- Science, Technology, Engineering, & Mathematics (STEM) information (http://www.cde.ca.gov/pd/ca/sc/stemintrod.asp)

- *2003 Science Framework for California Public Schools, Kindergarten Through Grade Twelve*

http://www.cde.ca.gov/ci/cr/cf/documents/scienceframework.pdf

12) Assessing a pupil's understanding of and ability to use the technology necessary for success in the 21st century classroom and workplace.

Guiding Questions

1. What are the advantages and disadvantages of students using technology skills when completing a computer–adaptive and/or computer–based assessment?
2. Which grade levels and content areas are appropriate for utilizing technology?
3. How should a students' use of technology connect to success in the 21st century classroom and workplace?

Background

In California, the State Board of Education adopted Common Core State Standards (CCSS) for English–language arts (ELA), Model Library Standards, and California Career and Technical Education (CCTE) which contain standards or components of standards that address a student's understanding of and ability to use technology. For example, the ELA CCSS writing standards for grades six through twelve mention the use of digital sources for research as well as the use of technology for publishing and distributing writing. Additionally, the speaking and listening standards in grades six through twelve reference integrative multimedia and visual displays, and making use of digital media in presentations. Students will consistently be exposed to and utilize technology whether it is in the instructional or testing environment.

Through the use of computer–adaptive testing as part of the SMARTER Balanced Assessment Consortium, students will use the computer to select answers from a drop-down box or complete a technology enhanced item that may include video, Web searching, word processing and manipulation of images. The use of and interaction with technology by students during the SBAC assessment will provide students with a unique opportunity to demonstrate their understanding of and ability to use technology. Should California elect to develop additional state specific examinations (e.g., science tests), the use of a computer–based assessment could provide students with another opportunity to use their technology skills.

ESEA (i.e., federal) and state testing mandates currently do not include technology. However, the California Assessments in Career Education Program (ACE) was administered from 1998 to 2002 to recognize students at the high school level who demonstrated outstanding achievement on rigorous end-of-course examinations in selected career and technical areas, including, but not limited to, computer science and information technology and technology core. The ACE examinations were developed by and for California. They were based on career educational standards and included multiple-choice questions, written response questions, and/or problem-solving tasks. Prior to the ACE Program, California developed and administered the Career Technical Assessment Program from 1991 to 1997.

Other sources for technology skills and the knowledge students need in order to be successful in college and at work include 21st Century Skills and certification assessments. In many industry career sectors and in the Information and Communications Technologies Sector in particular, many opportunities are available for students to demonstrate what they know through certification assessments.

Resources

- *California's Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science and Technical Subjects*
  http://www.scoe.net/castandards/agenda/2010/ela_ccs_recommendations.pdf

- CompTIA vendor-neutral certifications
  http://certification.comptia.org/home.aspx

- Model School Library Standards
  http://www.cde.ca.gov/ci/cr/lb/documents/stndrdsgrdwintro.doc
  These standards are presented in a table format that gives the detailed standards for kindergarten through grade twelve under each overarching standard.

- Partnership for 21st Century Skills
  http://www.p21.org/index.php?option=com_content&task=view&id=254&Itemid=120

- Science, Technology, Engineering, & Mathematics (STEM) information
  http://www.cde.ca.gov/pd/ca/sc/stemintrod.asp

13) Providing for both formative and interim assessments, as those terms are defined in this chapter, in order to provide timely feedback for purposes on continually adjusting instruction to improve learning.

Guiding Questions

1. What roles should the state, county, or local educational agency have in providing formative assessment practices and tools?

2. What roles should the state, county, or local educational agency have in providing interim assessments?

3. What are the implications (e.g., professional development, etc.)?

Background

AB 250 defines **formative assessment** as:

(i) “assessment tools and processes that are embedded in instruction and are used by teachers and pupils to provide timely feedback for purposes of adjusting instruction to improve learning.”

AB 250 defines **interim assessment** as:

(k) “an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate a pupil’s knowledge and skills relative to a specific set of academic standards, and produces results that can be aggregated by course, grade level, school, or local educational agency in order to inform teachers and administrators at the pupil, classroom, school, and local educational agency levels.”

Currently, California does not mandate or provide formative or interim assessments or tools at the local level. Many local educational agencies provide interim assessments for their districts and schools. This has been a local decision. SBAC will provide both formative assessment practices and tools and interim assessments for the grades and content covered by SBAC to all states in the consortium. Interim assessments, like the summative assessments, will be computer adaptive and will include performance tasks.

Formative assessment practices and strategies are the basis for a digital library of professional development materials, resources, and tools aligned to the CCSS and SBAC claims and assessment targets. Research-based instructional tools will be available on demand to help teachers address learning challenges and differentiate instruction. The digital library will include professional development materials related to all components of the assessment system, such as scoring rubrics for performance tasks.

The following interim and formative information are directly from the SMARTER Balanced website at: www.smarterbalanced.org.

SBAC specifics regarding interim assessments include:

- Optional comprehensive and content-cluster measures that include computer adaptive assessments and performance tasks, administered at locally determined intervals throughout the school year
- Results that are reported on the same scale as the summative assessment to provide information about how students are progressing

- The source for interpretive guides that use publicly released items and tasks
- Grounded in cognitive development theory about how learning progresses across grades and how college and career readiness emerge over time
- Strong teacher involvement in developing and scoring constructed response items and performance tasks
- Teachers and administrators afforded the flexibility to:
  - Select item sets that provide deep, focused measurement of specific content clusters embedded in the CCSS
  - Administer these assessments at strategic points in the instructional year

  - Use results to better understand students' strengths and limitations in relation to the standards
  - Support state-level accountability systems using end-of-course assessments

SBAC specifics regarding formative tools and processes include:

- Provision of resources for teachers on how to collect and use information about student success in acquisition of the CCSS
- Use by teachers throughout the year to better understand a student's learning needs, check for misconceptions and/or provide evidence of progress toward learning goals
- Participation of teams of teachers from each state in:
  - Identifying formative assessment practices and curriculum resources to put in Digital Library
  - Completing a voluntary review of alignment of publishers' materials with the content specifications and developing a Consumers Report to upload to the Digital Library
- Development by national content experts of 54 (3 English–language arts and 3 mathematics per grade) formative assessment practices exemplar modules that provide model products for SBAC teachers (housed in Digital Library)
- Existing CCSS curriculum projects that are adapted to align with the SBAC content specifications (and uploaded to the Digital Library)
- Production of high-quality test manuals that include administration guidelines and supports for teachers and students
- Support of the administration of testing consistent with its purpose and intended use of data
- Trainings on how to administer the test, provide accommodations, and use the reporting system and other applications
- Enhancement of assessment literacy by providing well-articulated training on interpreting assessment results
- Connections supported by pre-service teachers
- Comprehensive support for formative assessment, including instructional modules aligned with CCSS
- Training modules to help teachers focus their instruction on the CCSS and develop teaching practices that support more in-depth learning
- Enhancement of assessment literacy by training teachers to use formative assessment tools and interim assessment to determine next steps in instruction
- Supports for students to manage their own learning

Resources

- *The Role of Interim Assessments in a Comprehensive Assessment System: A Policy Brief*
  http://www.achieve.org/files/TheRoleofInterim%20Assessments12-13-07.pdf
  This policy brief was developed by the Aspen Institute Education and Society Program and Achieve, Inc., in partnership with the National Center for the Improvement of Educational Assessment.

- SMARTER Balanced Assessments
  http://www.smarterbalanced.org/smarter-balanced-assessments/

14) Making use of test administration and scoring technologies that will allow the return of test results to parents and teachers as soon as is possible in order to support instructional improvement.

Guiding Questions

1. Which type(s) of test delivery method(s) (i.e., computer adaptive, computer-based, paper/pencil) should be considered for assessments outside of the summative SBAC assessments?
2. What are the advantages and disadvantages of automated scoring for all students?
3. What are the considerations for test security and the future of assessment in California?

Background

Computer based or adaptive testing is not new to California. The Graduate Record Exam (GRE), Test of English as a Foreign Language (TOEFL), Accelerated Reader (AR), and California Basic Educational Skills Test (CBEST) are computer based tests.

Computer-Based Testing

Computer-based testing is a standardized mode of test delivery that includes technology-based tools for consistency in delivery, scoring, and reporting. Results are available faster and security is enhanced. One of the drawbacks of computer-based testing is the need for technology. With the more recent use of tablets, the cost of technology needed for computer-based testing has decreased.

Computer Adaptive Testing

SBAC will utilize computer adaptive testing for both the mandatory summative assessment and the interim assessments. Based on student responses, the computer program adjusts the difficulty of questions throughout the assessment. For example, a student who answers a question correctly will receive a more challenging item, while an incorrect answer generates an easier question. By adapting to the student as the

assessment is taking place, these assessments present an individually tailored set of questions to each student and can quickly identify which skills students have mastered. This approach represents a significant improvement over traditional paper-and-pencil assessments.

One critical aspect to consider is that computer-adaptive testing requires a large item bank and substantial field test data to be successful.

Automated Scoring

Human scoring is not the only option for scoring constructed response items. Automated scoring technology can produce scores more quickly and at a lower cost than human scoring. SBAC is considering the capabilities of automated scoring of the common assessments.

There is additional literature available regarding automated scoring. Policy Analysis for California Education (PACE) and the Rennie Center for Education Research & Policy commissioned and produced a May 2011 report, “The Road Ahead for State Assessments.” Here is an excerpt:

> Test developers have also been working to create automated scoring routines to
> enable computer scoring of short essays and constructed responses. These artificial intelligence engines are trained on exemplars at various levels of performance. A concern emerges if the exemplars do not reflect the full range of writing features, including those characteristic of English learners at various levels of English-language proficiency. ELs at different ELP levels may exhibit “inter-language” grammatical or vocabulary errors that are typical of different stages of second language acquisition. They may also use different and varying narrative and discourse patterns, and varying sentence and paragraph lengths, all of which could be misinterpreted in automated scoring methods. Addressing this concern may require the development of specialized scoring routines for use with ELs, trained to recognize common inter-language features, and provide more careful analysis of performance by students’ ELP levels.

Another option for addressing this concern is for the technology to be designed to flag responses that reflect unusual or different patterns for teachers (i.e., humans) to score.

Reporting

Currently, schools and parents/guardians must wait several months before they receive the results from standardized tests including the STAR and CAHSEE results. One of the reasons for the delay in receiving results is due to the post-equating process. The scores cannot be equated until 80 percent of the answer documents are scored. The issue with that method is that a significant number of results have to be available before equating can happen. Each year we find ourselves waiting on the lower volume tests

such as integrated math, integrated science and physics. Combine that with a long testing window, and results can be slow in coming. This equating process takes up to ten business days to complete.

We are currently examining this area through our STAR testing contract. Results for the 2013 administration of the CSTs and CMA will be provided within 10-12 days instead of months. To accomplish this, Educational Testing Service will reuse previously administered test forms from different administrations and pre-equating will be performed prior to the operational administration. Historically, California has used a post-equating method.

The use of computerized assessments and automated scoring allow teachers, principals, and parents to receive results in weeks, not months. Faster results mean that teachers can use the information from optional interim assessments throughout the school year to differentiate instruction and better meet the unique needs of their students.

Test Security

Computer adaptive testing provides a system where the assessments draw from a large bank of questions, and since students receive different questions based on their responses, test items are more secure and can be used for a longer period of time.

Resources

- "Automated Scoring for the Assessment of Common Core Standards"
  http://professionals.collegeboard.com/profdownload/Automated-Scoring-for-the-Assessment-of-Common-Core-Standards.pdf
  This paper was prepared by Educational Testing Service, Pearson Education, Inc., and The College Board.

- "A Comparison of Pre-Equating and Post-Equating Using Large-Scale Assessment Data"
  http://www.pearsonassessments.com/NR/rdonlyres/BA6B3D16-50BA-40EA-B235-1E174EBF07F6/0/ComparisonofPrePostEquatingUsingLargeScaleAssessmentData.pdf
  This paper, prepared for the American Educational and Research Association annual conference, March 2008, provides more information on pre-equating and post-equating methods.

- *The Road Ahead for State Assessments*
  http://issuu.com/leahjensen/docs/renniecenter_45
  This report, commissioned and produced by Policy Analysis for California Education (PACE) and the Rennie Center for Education Research & Policy, includes information on automated scoring.

- Smarter Balanced Computer Adaptive Testing Web page http://www.smarterbalanced.org/smarter-balanced-assessments/computer-adaptive-testing/

15) Minimizing testing time while not jeopardizing the validity, reliability, fairness, or instructional usefulness of the assessment results.

Guiding Questions

1. Which current redundancies should be eliminated from the statewide assessment system to reduce testing time?
2. Which areas of the various domains and subjects are most important for measuring achievement and growth?
3. Should information collected through classroom instruction be used to augment statewide assessment data? If so, how?
4. What roles should the state, county, or local educational agency have in ensuring the validity, reliability, fairness, or instructional usefulness of local assessments?

Background

The amount of time spent on assessment is a direct result of the quantity and quality of the information desired from the assessment. Depending on the purpose(s) of the assessment, different steps may be taken to reduce testing time. The greater the desired precision, depth, and breadth of measurement, the longer the assessment will take to complete.

Two factors primarily affect the amount of time students spend on a test: (1) the number of questions; and (2) the amount of time it takes to answer each question.

For assessments designed for school-level accountability, testing time might be reduced by using matrix sampling to provide broad coverage of the curriculum for the least time spent on testing for individual students. Test blueprints can also specify rotations in the material to be covered, reducing testing time in a given year.

For assessments designed to measure individual pupil achievement and growth, testing time can be reduced by:

- Assessing achievement and growth only in those subjects that are critical for individual student success
- Narrowing the focus of the assessment of a given domain to only those areas of the curriculum for which measurement of individual pupil achievement is critical
- Using computer adaptive testing to achieve faster estimation of achievement with less measurement error

- Utilizing other data collected as part of the instructional process to inform the measurement of growth and achievement
- Eliminating tests that measure the same or nearly the same constructs at the same point in time
- Minimizing the number of constructed response items on the assessment
- Limiting the number of reporting categories (strands or sub-scores) measured by the assessment
- Where questions require stimuli—such as reading passages, complex diagrams, or models—utilizing fewer stimuli, with more questions attached to each

For diagnostic assessments designed to inform instruction, testing time can be reduced by:

- Designing assessments so they include items that provide critical information on fundamental skills that influence performance in the domain has a whole
- Using computer adaptive testing to more rapidly inventory skills with less measurement error

Resources

- CDE SBAC Web site
  http://www.cde.ca.gov/ta/tg/sa/smarterbalanced.asp
  This Web page provides a Computer Adaptive Testing Webinar and Computer Adaptive Testing Fact Sheet

- NAEP Glossary of Terms
  http://nces.ed.gov/nationsreportcard/glossary.asp

- STAR and CAHSEE Blueprints
  http://www.cde.ca.gov/ta/tg/sr/resources.asp

16) Including options for diagnostic assessments for pupils in grade 2.

Guiding Questions

1. What would be the advantages and disadvantages of diagnostic assessment?

2. At which grade levels or grade spans would diagnostic assessment be best administered?

3. In which content areas? For which students?

4. What kind of information would you like the diagnostic assessment to provide?

5. What roles should the state, county, or local educational agency have in providing diagnostic assessments?

Background

Definitions of diagnostic assessments

AB 250 defines **diagnostic assessments** as follows:

> (f) "Diagnostic assessment" means interim assessments of the current level of achievement of a pupil that serves both of the following purposes:
>
> > (1) The identification of particular academic standards or skills a pupil has or has not yet achieved.
> >
> > (2) The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.

Interim assessments, in turn are defined as:

> (k) "Interim assessment" means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate a pupil's knowledge and skills relative to a specific set of academic standards, and produces results that can be aggregated by course, grade level, school, or local educational agency in order to inform teachers and administrators at the pupil, classroom, school, and local educational agency levels.

Use of Diagnostic Assessments in California

Mathematics Diagnostic Testing Project
The Mathematics Diagnostic Testing Project (MDTP) was formed as a joint project of and supported by The California State University and the University of California in 1977. The charge to the work group included determining mathematics areas in which competency was necessary for success in certain mathematics courses and developing diagnostic tests for those areas. The tests were used by both university systems. By 1986, a series of four tests had been released for use by California high schools. The MDTP tests are designed to measure student readiness for a broad range of mathematics courses. More importantly, the tests were developed to provide students and teachers with diagnostic information about student preparedness for subsequent courses. This information can help students identify specific areas where additional study or review is needed. It can help teachers identify topics and skills that need more attention in courses. The MDTP tests are diagnostic, not comprehensive; they should not be used as final exams.

Use of Diagnostic Assessments in Kindergarten Through Grade Two Outside California

Indiana and Ohio have developed assessment systems that include diagnostic assessments and instructional supports for grade two:

- **Ohio Department of Education** hosts a portal for diagnostic assessments that includes screening instruments and standards instructional support tools.

- **Indiana Department of Education's** K–2 Diagnostic Tools include English–language arts and mathematics assessment options to enable teachers to target instruction to fit each student's needs and to monitor each student's progress toward mastery. The English–language arts tool, mCLASS®: Reading 3D™, is an integration of Dynamic Indicators of Basic Early Literacy Skills (DIBELS®) and Reading Records. DIBELS® alerts teachers to problems in student learning and informs them of student progress. Reading Records helps teachers learn more about students' error patterns, reading strategies, and comprehension.

  The mathematics tool, mCLASS®: Math, is used to help identify students at risk of not acquiring proficient early mathematics skills and aids teachers in learning more about students' mathematical thinking. mCLASS®: Math also offers suggestions for teachers on how to approach instruction after uncovering students' instructional needs.

Resources

- Indiana Department of Education Assessment Programs: Center for Innovation in Assessment
  http://www.cia.indiana.edu/assessments_IRA_2.htm
  http://www.wirelessgeneration.com/indiana

- Mathematics Diagnostic Testing Project
  http://mdtp.ucsd.edu/

- Ohio Department of Education
  http://www.diagnostictestsupport.org/about/whatare.asp

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 5

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
A Conversation about the Future of Accountability in California: The School Accountability Report Card, Including Approval of the 2011–12 Template.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE) annually approves the School Accountability Report Card (SARC) template in accordance with the requirements of state law (California *Education Code* [*EC*] sections 33126, 33126.1, 35256, 35258, and 41020).

One of the key components of California's accountability system is the SARC. With 35 data tables reporting on information such as student enrollment, facilities and textbooks, student academic achievement, and graduation rates, the SARC is arguably the most comprehensive accountability tool available to gauge the performance of schools. However, past research has shown that the SARC is not easily accessible by parents, not consistent from school to school, and not engaging or user-friendly.

In May 2012, the SBE engaged in an initial conversation about the future of accountability in California which included information about the SARC, the Academic Performance Index (API), and local school review processes. The California Department of Education (CDE) is providing this item as part of a continuing conversation about the future of accountability in California.

RECOMMENDATION

The CDE recommends that the SBE approve the proposed template for the 2011–12 SARC that will be published during the 2012–13 school year. The only changes to the 2011–12 SARC template from last year's SBE-approved template was to update the dates from 2010–11 to 2011–12.

BRIEF HISTORY OF KEY ISSUES

Included in Proposition 98, passed in 1988, the SARC is an accountability tool that reports data on various indicators. The purpose of the SARC was to apprise parents and members of the public about school conditions and performance.

The CDE is responsible for annually preparing a SARC template for SBE approval that includes all legally required data elements (see Attachment 1 for the proposed 2011-12 SARC template).

Schools can download the SARC template from the Internet and use it to meet their SARC requirements or they may use a different format, as long as all legally required data elements are included. See Attachment 2 for information about the legal requirements for each SARC data element. Schools have a legal obligation to complete their SARC by February 1 of each year, notify their parents of the availability of the SARC, post the SARC on their school's Web site, and provide the CDE with the Uniform Resource Locator (URL) of the SARC.

The information above describes the legal requirements placed upon schools, the CDE, and the SBE around the SARC. Any changes to the required data elements included in the SARC must be legislated. However, the State Superintendent of Public Instruction (SSPI), the CDE, and the SBE have considerable flexibility in the formatting of the SARC template, including how the data elements are displayed (e.g., tables or graphics) and the order in which the data elements appear in the SBE-approved template.

The CDE has convened stakeholder groups at various times to discuss revisions to the SARC, and the current SARC is a reflection of these various stakeholder groups' input. However, the CDE has not convened a stakeholder group to discuss the contents of the SARC since 2007.

A March 2008 Legislative Report, entitled "Improving the Usability and Readability of the School Accountability Report Card (SARC)" was included in the May 2012 SBE item on the Future of Accountability in California. The agenda item can be found on the CDE SBE Agenda—May 9-10, 2012 Web page at http://www.cde.ca.gov/be/ag/ag/yr12/documents/may12item06.doc. That report outlined several recommendations for future improvements to the SARC and highlighted work done by The Grow Network, supported by the Hewlett Foundation, about ways to improve the SARCs usability and readability. The recommendations provided by The Grow Network were not implemented for a variety of reasons including budgetary constraints and CDE accessibility concerns, but many of the recommendations are relevant to the continued conversation about the future of the SARC in California.

When considering SBE actions and improvements related to the SARC, there are three categories of recommended improvements: 1) immediate actions to be taken by the SBE, 2) short-term improvements that can be accomplished within two to six months, and 3) long-term improvements that would take longer than six months.

Immediate Action to be taken by the SBE Related to the SARC

Each year, the CDE prepares for the SBE a template containing all the SARC reporting elements that are required by state and federal laws. Local educational agencies (LEAs) may use the template as designed or may design their own report cards as long as all legally required information is included.

Prior to 2010, the CDE provided three options for LEAs to use to meet the SARC requirement: (1) a blank template, (2) a template pre-populated with data, and (3) downloadable data files. The template pre-populated with data and the downloadable data files include data available to the CDE (e.g., test results).

In 2010, the budget used to support the production of the template was eliminated. Therefore, the template pre-populated with data was not provided for LEAs in 2010. The SSPI requested that the CDE look for alternative solutions to assist LEAs. An existing partnership between the CDE, EdSource, and the Fiscal Crisis and Management Assistance Team called the Ed-Data Partnership (Ed-Data) was identified as a potential option for producing the SARC template pre-populated with data. The Ed-Data supports a Web-based series of data reports and displays for schools, school districts, counties, and the state that are designed to offer educators, policy makers, the legislature, parents, and the public quick access to timely and comprehensive data about kindergarten through grade twelve education in California. The Ed-Data Web site already reported on the majority of legally required SARC data elements making it a natural fit for the SARC template pre-populated with data. The SARC template pre-populated with data was first provided on the Ed-Data Web site in November 2011 for LEAs to produce the 2010-11 SARCs published during the 2011-12 school year.

For the 2012-13 school year, the blank SARC template and the downloadable data files will be made available on the CDE Web page and the SARC template pre-populated with data will be available on the Ed-Data Web site. The pre-populated SARC template will also be available in at least the top five languages, other than English, spoken by students in California.

The only changes to the 2011–12 SARC template from last year's SBE-approved template was to update the dates from 2010–11 to 2011–12.

Possible Short-Term Improvements to the SARC

1. Revise the Optional SARC Executive Summary

The content and format of the current SARC executive summary was developed out of the workgroup meetings convened in 2007. There was no SARC executive summary prior to 2007 and there is no requirement in law for an executive summary. Each data element that appears on the SARC executive summary also appears in the SARC but not all data elements appear in the executive summary.

One approach to improving the usefulness of the SARC would be to review and potentially revise the data elements that appear in the executive summary to ensure that the chosen data elements are the most important to reflect the goals identified by the SSPI and the SBE. Re-ordering the current data elements in the current executive summary is another option that the SSPI and SBE could consider. The current SARC executive summary appears as the first three pages of the SARC template and is available on the CDE 2010-11 SARC Web page at http://www.cde.ca.gov/ta/ac/sa/sarc1011.asp.

If the SBE is interested in pursuing changes to the executive summary, the CDE will work with SBE staff and convene the Public Schools Accountability Act (PSAA) advisory committee to discuss revisions. The PSAA advisory committee would discuss which data elements to consider for the executive summary, as well as if the executive summary should only include data already collected by the CDE, thus ensuring more consistency of the data from school to school. The CDE will then bring these recommendations back to the SBE at its September 2012 meeting for review.

2. Explore the Promulgation of Regulations To Improve Accessibility of SARCs

Current state law does not provide any specific direction to schools regarding how to report to CDE a link to their SARC Web page or require a consistent location on each school or LEA's Web page where the SARC should be posted. This lack of consistency from school to school and LEA to LEA may make SARCs difficult to locate by parents. One approach that the SBE could pursue is to explore the promulgation of regulations that would require each school to report to the CDE the specific URL where the school's SARC is posted on the school's Web site by February 1 of each school year and that each LEA create a link off the LEA's main Web page where all SARCs can be accessed.

Possible Long-Term Improvements to the SARC

1. **Explore the Development of a Web-Based Application That Schools Could Use to Provide the CDE with the Locally Collected SARC Data Elements**

There are two issues that could be addressed by the development of a Web-based application that would allow LEAs to provide the CDE with data that are currently required on the SARC but collected and reported locally.

The first issue is around consistency of the SARCs. Because schools are not required to produce their SARCs using the SBE-adopted template, there are substantial differences in formatting, organization of data elements, and the way that schools elect to display data in either tabular and graphical ways. These differences may present significant challenges for parents and the public when trying to make comparisons between schools.

The second issue is that about 12 of the 25 data tables and narrative boxes included in the SARC template are collected and reported locally and added to the pre-populated SARC template by LEAs. That information is not collected by the CDE, which limits the CDE's ability to prepare and post on the Internet SARCs for all schools in California. In addition, the CDE does not have an ongoing archive of locally-provided SARC data. Because these data are scattered across thousands of individual school Web sites, the CDE cannot easily analyze, compile, or manipulate information for these data elements.

One approach to address both these issues would be to develop a Web-based application where schools would submit data directly to the CDE. The CDE would then marry the data already available at the CDE with the data provided by the LEAs to prepare and post a completed SARC for every school in California. This approach,

however, would require additional fiscal resources and might also incur state mandated costs.

2. Revise the SARC Template to Be More User-Friendly

One complaint levied against the current SARC is that the CDE-provided template format and data displays are not engaging or user-friendly. A typical completed SARC will be 18 or more pages in length and include data and narrative statements in more than 35 different areas. The CDE could convene a stakeholder group and/or conduct focus groups to identify improvements in the organization, formatting, and data displays that would be more appropriate for the target audience. However, this approach would require additional fiscal resources that would vary depending on the mechanism for convening the group as well as the scope of the revisions.

3. Develop a Data Dashboard with Rating Information About Schools

While the SARC includes many data elements that provide information about school conditions and performance, users of the SARC are left to draw their own conclusions about the effectiveness of a particular school, because the SARC lacks an evaluative component that could indicate relative performance of the school.

There are several ways that this type of report might be developed. One way would be to establish ranges of performance and provide a rating for each individual data element. Another way would be to provide ratings for each individual data element and then organize the individual data elements into broader categories and provide a rating for each category.

The ratings could take many forms; for example, letter grades or symbolic ratings, such as stars. Colors could also be used to indicate whether a school was meeting or exceeding a target (green) or was below the target (red).

If the data in this type of report were limited to what was available to the CDE, the CDE could publish a consistent report for every school in California.

The goal of this approach would be to provide context and meaning for the wealth of data contained in the SARC so that parents and the public could gauge whether a school is exceeding expectations, meeting expectations, or below expectations.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In May 2012, the SBE engaged in a discussion about the future of accountability in California that included exploring ways to better utilize the SARC to communicate with parents and the public about the performance of schools across a number of important indicators.

In July 2011, the SBE approved the 2010–11 SARC template that was used for SARCs published during the 2011–12 school year.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved by the SBE, the recommended action will result in ongoing costs to the Ed-Data Partnership to prepare the pre-populated SARC template. All costs associated with the preparation of the data files are included in the Analysis, Measurement, and Accountability Reporting Division budget.

However, additional development costs will be associated with changes to the SARC executive summary or development of additional reports, but until the format and contents of such reports are finalized, the fiscal impact is unknown.

ATTACHMENT(S)

Attachment 1: School Accountability Report Card Reported Using Data from the 2011–12 School Year, Published During 2012–13 (16 Pages)

Attachment 2: Legal Reference for SARC Data Elements (2 Pages)

School Accountability Report Card
Reported Using Data from the 2011–12 School Year
Published During 2012–13

Every school in California is required by state law to publish a School Accountability Report Card (SARC), by February 1 of each year. The SARC contains information about the condition and performance of each California public school.

- ➢ For more information about SARC requirements, see the California Department of Education (CDE) SARC Web page at http://www.cde.ca.gov/ta/ac/sa/.

- ➢ For additional information about the school, parents and community members should contact the school principal or the district office.

I. Data and Access

Ed-Data Partnership Web Site

Ed-Data is a partnership of the CDE, EdSource, and the Fiscal Crisis and Management Assistance Team (FCMAT) that provides extensive financial, demographic, and performance information about California's public kindergarten through grade twelve school districts and schools.

DataQuest

DataQuest is an online data tool located on the CDE DataQuest Web page at http://dq.cde.ca.gov/dataquest/ that contains additional information about this school and comparisons of the school to the district, the county, and the state. Specifically, DataQuest is a dynamic system that provides reports for accountability (e.g., state Academic Performance Index [API], federal Adequate Yearly Progress [AYP]), test data, enrollment, high school graduates, dropouts, course enrollments, staffing, and data regarding English learners.

Internet Access

Internet access is available at public libraries and other locations that are publicly accessible (e.g., the California State Library). Access to the Internet at libraries and public locations is generally provided on a first-come, first-served basis. Other use restrictions may include the hours of operation, the length of time that a workstation may be used (depending on availability), the types of software programs available on a workstation, and the ability to print documents.

II. About This School

District Contact Information (School Year 2012–13)

Name	Data provided by the CDE
Phone Number	Data provided by the CDE
Web Site	Data provided by the CDE
Superintendent	Data provided by the CDE
E-mail Address	Data provided by the CDE
CDS Code	Data provided by the CDE

School Contact Information (School Year 2012–13)

Name	Data provided by the CDE
Street	Data provided by the CDE
City, State, Zip	Data provided by the CDE
Phone Number	Data provided by the CDE
Principal	Data provided by the CDE
E-mail Address	Data provided by the CDE

School Description and Mission Statement (School Year 2011–12)

Narrative provided by the LEA

Use this space to provide information about the school, its program, and its goals.

Opportunities for Parental Involvement (School Year 2011–12)

Narrative provided by the LEA

Use this space to provide information on how parents can become involved in school activities, including contact information pertaining to organized opportunities for parent involvement.

Student Enrollment by Grade Level (School Year 2011–12)

Grade Level	Number of Students
Kindergarten	Data provided by the CDE
Grade 1	Data provided by the CDE
Grade 2	Data provided by the CDE
Grade 3	Data provided by the CDE
Grade 4	Data provided by the CDE
Grade 5	Data provided by the CDE
Grade 6	Data provided by the CDE
Grade 7	Data provided by the CDE
Grade 8	Data provided by the CDE
Ungraded Elementary	Data provided by the CDE
Grade 9	Data provided by the CDE
Grade 10	Data provided by the CDE
Grade 11	Data provided by the CDE
Grade 12	Data provided by the CDE
Ungraded Secondary	Data provided by the CDE
Total Enrollment	Data provided by the CDE

Student Enrollment by Student Group (School Year 2011–12)

Group	Percent of Total Enrollment
Black or African American	Data provided by the CDE
American Indian or Alaska Native	Data provided by the CDE
Asian	Data provided by the CDE
Filipino	Data provided by the CDE
Hispanic or Latino	Data provided by the CDE
Native Hawaiian or Pacific Islander	Data provided by the CDE
White	Data provided by the CDE
Two or More Races	Data provided by the CDE
Socioeconomically Disadvantaged	Data provided by the CDE
English Learners	Data provided by the CDE
Students with Disabilities	Data provided by the CDE

Average Class Size and Class Size Distribution (Elementary)

Grade Level	Avg. Class Size	2009–10 Number of Classes*			Avg. Class Size	2010–11 Number of Classes*			Avg. Class Size	2011–12 Number of Classes*		
		1-20	21-32	33+		1-20	21-32	33+		1-20	21-32	33+
K	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
1	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
2	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
3	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
4	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
5	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
6	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
Other	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			

* Number of classes indicates how many classes fall into each size category (a range of total students per class).

Average Class Size and Class Size Distribution (Secondary)

Subject	Avg. Class Size	2009–10 Number of Classes*			Avg. Class Size	2010–11 Number of Classes*			Avg. Class Size	2011–12 Number of Classes*		
		1-22	23-32	33+		1-22	23-32	33+		1-22	23-32	33+
English	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
Mathematics	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
Science	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			
Social Science	Data provided by the LEA				Data provided by the CDE				Data provided by the CDE			

* Number of classes indicates how many classrooms fall into each size category (a range of total students per classroom). At the secondary school level, this information is reported by subject area rather than grade level.

III. School Climate

School Safety Plan (School Year 2011–12)

Narrative provided by the LEA

Use this space to provide information about the school's comprehensive safety plan, including the dates on which the safety plan was last reviewed, updated, and discussed with faculty; as well as a brief description of the key elements of the plan.

Suspensions and Expulsions

Rate*	School 2009–10	School 2010–11	School 2011–12	District 2009–10	District 2010–11	District 2011–12
Suspensions	Data provided by the CDE					
Expulsions	Data provided by the CDE					

* The rate of suspensions and expulsions is calculated by dividing the total number of incidents by the total enrollment.

IV. School Facilities

School Facility Conditions and Planned Improvements (School Year 2012–13)

Narrative provided by the LEA

Using the most recent Facility Inspection Tool (FIT) data (or equivalent) provide the following:

- *Description of the safety, cleanliness, and adequacy of the school facility*
- *Description of any planned or recently completed facility improvements*
- *Description of any needed maintenance to ensure good repair*
- *Determination of repair status for systems listed*
- *The year and month in which the data were collected*
- *The Overall Rating (bottom row)*

School Facility Good Repair Status (School Year 2012–13)

System Inspected	Repair Status				Repair Needed and Action Taken or Planned
	Exemplary	Good	Fair	Poor	
Systems: Gas Leaks, Mechanical/HVAC, Sewer		Data provided by the LEA			
Interior: Interior Surfaces		Data provided by the LEA			
Cleanliness: Overall Cleanliness, Pest/ Vermin Infestation		Data provided by the LEA			
Electrical: Electrical		Data provided by the LEA			
Restrooms/Fountains: Restrooms, Sinks/ Fountains		Data provided by the LEA			
Safety: Fire Safety, Hazardous Materials		Data provided by the LEA			
Structural: Structural Damage, Roofs		Data provided by the LEA			
External: Playground/School Grounds, Windows/ Doors/Gates/Fences		Data provided by the LEA			
Overall Rating	Data provided by the LEA				

Note: Cells shaded in black do not require data.

Using the most recent FIT data (or equivalent) provide the following:

- Determination of repair status for systems listed
- Description of any needed maintenance to ensure good repair
- The year and month in which the data were collected
- The Overall Rating (bottom row)

V. Teachers

Teacher Credentials

Teachers	School 2009–10	School 2010–11	School 2011–12	District 2011–12
With Full Credential	Data provided by the LEA			
Without Full Credential	Data provided by the LEA			
Teaching Outside Subject Area of Competence (with full credential)	Data provided by the LEA			

Teacher Misassignments and Vacant Teacher Positions

Indicator	2010–11	2011–12	2012–13
Misassignments of Teachers of English Learners	Data provided by the LEA		
Total Teacher Misassignments	Data provided by the LEA		
Vacant Teacher Positions	Data provided by the LEA		

Note: "Misassignments" refers to the number of positions filled by teachers who lack legal authorization to teach that grade level, subject area, student group, etc.

* *Total Teacher Misassignments* includes the number of *Misassignments of Teachers of English Learners*.

Core Academic Classes Taught by Highly Qualified Teachers (School Year 2011–12)

The Federal Elementary and Secondary Education Act (ESEA), also known as No Child Left Behind (NCLB), requires that core academic subjects be taught by Highly Qualified Teachers, defined as having at least a bachelor's degree, an appropriate California teaching credential, and demonstrated core academic subject area competence. For more information, see the CDE Improving Teacher and Principal Quality Web page at: http://www.cde.ca.gov/nclb/sr/tq/.

Location of Classes	Percent of Classes In Core Academic Subjects Taught by Highly Qualified Teachers	Percent of Classes In Core Academic Subjects Not Taught by Highly Qualified Teachers
This School	Data provided by the CDE	
All Schools in District	Data provided by the CDE	
High-Poverty Schools in District	Data provided by the CDE	
Low-Poverty Schools in District	Data provided by the CDE	

* High-poverty schools are defined as those schools with student eligibility of approximately 40 percent or more in the free and reduced price meals program. Low-poverty schools are those with student eligibility of approximately 25 percent or less in the free and reduced price meals program.

VI. Support Staff

Academic Counselors and Other Support Staff (School Year 2011–12)

Title	Number of FTE Assigned to School	Average Number of Students per Academic Counselor
Academic Counselor	Data provided by the LEA	
Counselor (Social/Behavioral or Career Development)	Data provided by the LEA	
Library Media Teacher (librarian)	Data provided by the LEA	
Library Media Services Staff (paraprofessional)	Data provided by the LEA	
Psychologist	Data provided by the LEA	
Social Worker	Data provided by the LEA	
Nurse	Data provided by the LEA	
Speech/Language/Hearing Specialist	Data provided by the LEA	
Resource Specialist (non-teaching)	Data provided by the LEA	
Other	Data provided by the LEA	

Note: Cells shaded in black do not require data.

* One Full Time Equivalent (FTE) equals one staff member working full time; one FTE could also represent two staff members who each work 50 percent of full time.

VII. Curriculum and Instructional Materials

Quality, Currency, Availability of Textbooks and Instructional Materials (School Year 2012–13)

This section describes whether the textbooks and instructional materials used at the school are from the most recent adoption; whether there are sufficient textbooks and instruction materials for each student; and information about the school's use of any supplemental curriculum or non-adopted textbooks or instructional materials.

Year and month in which data were collected: _____

Core Curriculum Area	Textbooks and instructional materials/year of adoption	From most recent adoption?	Percent students lacking own assigned copy
Reading/Language Arts	Data provided by the LEA		
Mathematics	Data provided by the LEA		
Science	Data provided by the LEA		
History-Social Science	Data provided by the LEA		
Foreign Language	Data provided by the LEA		
Health	Data provided by the LEA		
Visual and Performing Arts	Data provided by the LEA		
Science Laboratory Equipment (grades 9-12)	Data provided by the LEA		

Note: You are not required present SARC information in a tabular format. This template is only a guide. You can provide a narrative or other format. But be sure to include all the information requested below for this section:

List all textbooks and instructional materials used in the school in core subjects (reading/language arts, math, science, & history-social science), including:

- Year they were adopted
- Whether they were selected from the most recent list of standards-based materials adopted by the SBE or local governing board
- Percent of students who lack their own assigned textbooks and/or instructional materials*
- For K-8, include any supplemental curriculum adopted by local governing board

*If an insufficiency exists, the description must identify the percent of students who lack sufficient textbooks and instructional materials. Be sure to use the most recent available data collected by the LEA and **note the year and month in which the data were collected**.

VIII. School Finances

Expenditures Per Pupil and School Site Teacher Salaries (Fiscal Year 2010–11)

Level	Total Expenditures Per Pupil	Expenditures Per Pupil (Supplemental/ Restricted)	Expenditures Per Pupil (Basic/ Unrestricted)	Average Teacher Salary
School Site	Data provided by the LEA			
District			Data provided by the LEA	Data provided by the CDE
Percent Difference – School Site and District			Data provided by the LEA	
State			Data provided by the CDE	
Percent Difference – School Site and State			Data provided by the LEA	

Note: Cells shaded in black do not require data.

Supplemental/Restricted expenditures come from money whose use is controlled by law or by a donor. Money that is designated for specific purposes by the district or governing board is not considered restricted. ***Basic/unrestricted*** expenditures are from money whose use, except for general guidelines, is not controlled by law or by a donor.

For detailed information on school expenditures for all districts in California, see the CDE Current Expense of Education & Per-pupil Spending Web page at http://www.cde.ca.gov/ds/fd/ec/. For information on teacher salaries for all districts in California, see the CDE Certificated Salaries & Benefits Web page at http://www.cde.ca.gov/ds/fd/cs/. To look up expenditures and salaries for a specific school district, see the Ed-Data Web site at: http://www.ed-data.org (Outside Source).

Types of Services Funded (Fiscal Year 2011–12)

Narrative provided by the LEA

Provide specific information about the types of programs and services available at the school that support and assist students. For example, this narrative may include information about supplemental educational services related to the school's federal Program Improvement (PI) status.

Teacher and Administrative Salaries (Fiscal Year 2010–11)

Category	District Amount	State Average For Districts In Same Category
Beginning Teacher Salary	Data provided by the CDE	
Mid-Range Teacher Salary	Data provided by the CDE	
Highest Teacher Salary	Data provided by the CDE	
Average Principal Salary (Elementary)	Data provided by the CDE	
Average Principal Salary (Middle)	Data provided by the CDE	
Average Principal Salary (High)	Data provided by the CDE	
Superintendent Salary	Data provided by the CDE	
Percent of Budget for Teacher Salaries	Data provided by the CDE	
Percent of Budget for Administrative Salaries	Data provided by the CDE	

For detailed information on salaries, see the CDE Certificated Salaries & Benefits Web page at http://www.cde.ca.gov/ds/fd/cs/.

IX. Student Performance

Standardized Testing and Reporting Program

The Standardized Testing and Reporting (STAR) Program consists of several key components, including:

- **California Standards Tests (CSTs)**, which include English-language arts (ELA) and mathematics in grades two through eleven; science in grades five, eight, and nine through eleven; and history-social science in grades eight, and nine through eleven.

- **California Modified Assessment (CMA)**, an alternate assessment that is based on modified achievement standards in ELA for grades three through eleven; mathematics for grades three through seven, Algebra I, and Geometry; and science in grades five and eight, and Life Science in grade ten. The CMA is designed to assess those students whose disabilities preclude them from achieving grade-level proficiency on an assessment of the California content standards with or without accommodations.

- **California Alternate Performance Assessment (CAPA)**, includes ELA and mathematics in grades two through eleven, and science for grades five, eight, and ten. The CAPA is given to those students with significant cognitive disabilities whose disabilities prevent them from taking either the CSTs with accommodations or modifications or the CMA with accommodations.

The assessments under the STAR Program show how well students are doing in relation to the state content standards. On each of these assessments, student scores are reported as performance levels.

For detailed information regarding the STAR Program results for each grade and performance level, including the percent of students not tested, see the CDE STAR Results Web site at http://star.cde.ca.gov.

Standardized Testing and Reporting Results for All Students – Three-Year Comparison

Subject	Percent of Students Scoring at Proficient or Advanced (meeting or exceeding the state standards)								
	School			District			State		
	2009–10	2010–11	2011–12	2009–10	2010–11	2011–12	2009–10	2010–11	2011–12
English-Language Arts	Data provided by the CDE								
Mathematics	Data provided by the CDE								
Science	Data provided by the CDE								
History-Social Science	Data provided by the CDE								

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

Standardized Testing and Reporting Results by Student Group – Most Recent Year

Group	Percent of Students Scoring at Proficient or Advanced			
	English-Language Arts	Mathematics	Science	History-Social Science
All Students in the LEA	Data provided by the CDE			
All Students at the School	Data provided by the CDE			
Male	Data provided by the CDE			
Female	Data provided by the CDE			
Black or African American	Data provided by the CDE			
American Indian or Alaska Native	Data provided by the CDE			
Asian	Data provided by the CDE			
Filipino	Data provided by the CDE			
Hispanic or Latino	Data provided by the CDE			
Native Hawaiian or Pacific Islander	Data provided by the CDE			
White	Data provided by the CDE			
Two or More Races	Data provided by the CDE			
Socioeconomically Disadvantaged	Data provided by the CDE			
English Learners	Data provided by the CDE			
Students with Disabilities	Data provided by the CDE			
Students Receiving Migrant Education Services	Data provided by the CDE			

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California High School Exit Examination

The California High School Exit Examination (CAHSEE) is primarily used as a graduation requirement. However, the grade ten results of this exam are also used to establish the percentages of students at three proficiency levels (not proficient, proficient, or advanced) in ELA and mathematics to compute AYP designations required by the federal ESEA, also known as NCLB.

For detailed information regarding CAHSEE results, see the CDE CAHSEE Web site at http://cahsee.cde.ca.gov/.

California High School Exit Examination Results for All Grade Ten Students – Three-Year Comparison (if applicable)

Subject	Percent of Students Scoring at Proficient or Advanced								
	School			District			State		
	2009–10	2010–11	2011–12	2009–10	2010–11	2011–12	2009–10	2010–11	2011–12
English-Language Arts	Data provided by the CDE								
Mathematics	Data provided by the CDE								

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California High School Exit Examination Grade Ten Results by Student Group – Most Recent Year (if applicable)

Group	English-Language Arts			Mathematics		
	Not Proficient	Proficient	Advanced	Not Proficient	Proficient	Advanced
All Students in the LEA	Data provided by the CDE					
All Students at the School	Data provided by the CDE					
Male	Data provided by the CDE					
Female	Data provided by the CDE					
Black or African American	Data provided by the CDE					
American Indian or Alaska Native	Data provided by the CDE					
Asian	Data provided by the CDE					
Filipino	Data provided by the CDE					
Hispanic or Latino	Data provided by the CDE					
Native Hawaiian or Pacific Islander	Data provided by the CDE					
White	Data provided by the CDE					
Two or More Races	Data provided by the CDE					
Socioeconomically Disadvantaged	Data provided by the CDE					
English Learners	Data provided by the CDE					
Students with Disabilities	Data provided by the CDE					
Students Receiving Migrant Education Services	Data provided by the CDE					

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California Physical Fitness Test Results (School Year 2011–12)

The California Physical Fitness Test (PFT) is administered to students in grades five, seven, and nine only. This table displays by grade level the percent of students meeting the fitness standards for the most recent testing period. For detailed information regarding this test, and comparisons of a school's test results to the district and state, see the CDE PFT Web page at http://www.cde.ca.gov/ta/tg/pf/.

Grade Level	Percent of Students Meeting Four of Six Fitness Standards	Percent of Students Meeting Five of Six Fitness Standards	Percent of Students Meeting Six of Six Fitness Standards
5	Data provided by the CDE		
7	Data provided by the CDE		
9	Data provided by the CDE		

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

X. Accountability

Academic Performance Index

The Academic Performance Index (API) is an annual measure of state academic performance and progress of schools in California. API scores range from 200 to 1,000, with a statewide target of 800. For detailed information about the API, see the CDE API Web page at http://www.cde.ca.gov/ta/ac/ap/.

Academic Performance Index Ranks – Three-Year Comparison

This table displays the school's statewide and similar schools' API ranks. The ***statewide API rank*** ranges from 1 to 10. A statewide rank of 1 means that the school has an API score in the lowest ten percent of all schools in the state, while a statewide rank of 10 means that the school has an API score in the highest ten percent of all schools in the state.

The ***similar schools API rank*** reflects how a school compares to 100 statistically matched "similar schools." A similar schools rank of 1 means that the school's academic performance is comparable to the lowest performing ten schools of the 100 similar schools, while a similar schools rank of 10 means that the school's academic performance is better than at least 90 of the 100 similar schools.

API Rank	2009	2010	2011
Statewide	Data provided by the CDE		
Similar Schools	Data provided by the CDE		

Academic Performance Index Growth by Student Group – Three-Year Comparison

Group	Actual API Change 2009–10	Actual API Change 2010–11	Actual API Change 2011–12
All Students at the School	Data provided by the CDE		
Black or African American	Data provided by the CDE		
American Indian or Alaska Native	Data provided by the CDE		
Asian	Data provided by the CDE		
Filipino	Data provided by the CDE		
Hispanic or Latino	Data provided by the CDE		
Native Hawaiian or Pacific Islander	Data provided by the CDE		
White	Data provided by the CDE		
Two or More Races	Data provided by the CDE		
Socioeconomically Disadvantaged	Data provided by the CDE		
English Learners	Data provided by the CDE		
Students with Disabilities	Data provided by the CDE		

Note: "N/D" means that no data were available to the CDE or LEA to report. "B" means the school did not have a valid API Base and there is no Growth or target information. "C" means the school had significant demographic changes and there is no Growth or target information.

Academic Performance Index Growth by Student Group – 2012 Growth API Comparison

This table displays, by student group, the number of students included in the API and the 2012 Growth API at the school, LEA, and state level.

Group	Number of Students	School	Number of Students	LEA	Number of Students	State
All Students at the School	Data provided by the CDE					
Black or African American	Data provided by the CDE					
American Indian or Alaska Native	Data provided by the CDE					
Asian	Data provided by the CDE					
Filipino	Data provided by the CDE					
Hispanic or Latino	Data provided by the CDE					
Native Hawaiian or Pacific Islander	Data provided by the CDE					
White	Data provided by the CDE					
Two or More Races	Data provided by the CDE					
Socioeconomically Disadvantaged	Data provided by the CDE					
English Learners	Data provided by the CDE					
Students with Disabilities	Data provided by the CDE					

Adequate Yearly Progress

The federal ESEA requires that all schools and districts meet the following Adequate Yearly Progress (AYP) criteria:

- Participation rate on the state's standards-based assessments in ELA and mathematics
- Percent proficient on the state's standards-based assessments in ELA and mathematics
- API as an additional indicator
- Graduation rate (for secondary schools)

For detailed information about AYP, including participation rates and percent proficient results by student group, see the CDE AYP Web page at http://www.cde.ca.gov/ta/ac/ay/.

Adequate Yearly Progress Overall and by Criteria (School Year 2011–12)

AYP Criteria	School	District
Made AYP Overall	Data provided by the CDE	
Met Participation Rate - English-Language Arts	Data provided by the CDE	
Met Participation Rate - Mathematics	Data provided by the CDE	
Met Percent Proficient - English-Language Arts	Data provided by the CDE	
Met Percent Proficient - Mathematics	Data provided by the CDE	
Met API Criteria	Data provided by the CDE	
Met Graduation Rate	Data provided by the CDE	

Federal Intervention Program (School Year 2012–13)

Schools and districts receiving federal Title I funding enter Program Improvement (PI) if they do not make AYP for two consecutive years in the same content area (ELA or mathematics) or on the same indicator (API or graduation rate). After entering PI, schools and districts advance to the next level of intervention with each additional year that they do not make AYP. For detailed information about PI identification, see the CDE PI Status Determinations Web page: http://www.cde.ca.gov/ta/ac/ay/tidetermine.asp.

Indicator	School	District
Program Improvement Status	Data provided by the CDE	
First Year of Program Improvement	Data provided by the CDE	
Year in Program Improvement	Data provided by the CDE	
Number of Schools Currently in Program Improvement		Data provided by the CDE
Percent of Schools Currently in Program Improvement		Data provided by the CDE

Note: Cells shaded in black do not require data.

XI. School Completion and Postsecondary Preparation

Admission Requirements for California's Public Universities

University of California

Admission requirements for the University of California (UC) follow guidelines set forth in the Master Plan, which requires that the top one-eighth of the state's high school graduates, as well as those transfer students who have successfully completed specified college course work, be eligible for admission to the UC. These requirements are designed to ensure that all eligible students are adequately prepared for University-level work.

For general admissions requirements, please visit the UC Admissions Information Web page at http://www.universityofcalifornia.edu/admissions/. (Outside Source)

California State University

Eligibility for admission to the California State University (CSU) is determined by three factors:

- Specific high school courses
- Grades in specified courses and test scores
- Graduation from high school

Some campuses have higher standards for particular majors or students who live outside the local campus area. Because of the number of students who apply, a few campuses have higher standards (supplementary admission criteria) for all applicants. Most CSU campuses have local admission guarantee policies for students who graduate or transfer from high schools and colleges that are historically served by a CSU campus in that region. For admission, application, and fee information see the CSU Web page at http://www.calstate.edu/admission/admission.shtml. (Outside Source)

Dropout Rate and Graduation Rate

Indicator	School			District			State		
	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11
Dropout Rate (1-year)	Data provided by the CDE								
Graduation Rate	Data provided by the CDE								

Note: The National Center for Education Statistics graduation rate as reported in AYP is provided in this table.

Completion of High School Graduation Requirements

This table displays, by student group, the percent of students who began the 2011–12 school year in grade twelve and were a part of the school's most recent graduating class, meeting all state and local graduation requirements for grade twelve completion, including having passed both the ELA and mathematics portions of the CAHSEE or received a local waiver or state exemption.

Graduating Class of 2012

Group	School	District	State
All Students	Data provided by the LEA		
Black or African American	Data provided by the LEA		
American Indian or Alaska Native	Data provided by the LEA		
Asian	Data provided by the LEA		
Filipino	Data provided by the LEA		
Hispanic or Latino	Data provided by the LEA		
Native Hawaiian or Pacific Islander	Data provided by the LEA		
White	Data provided by the LEA		
Two or More Races	Data provided by the LEA		
Socioeconomically Disadvantaged	Data provided by the LEA		
English Learners	Data provided by the LEA		
Students with Disabilities	Data provided by the LEA		

Note: Cells shaded in black do not require data.

Career Technical Education Programs (School Year 2011–12)

Narrative provided by the LEA

Use this space to provide information about Career Technical Education (CTE) programs including:

- *Programs and classes offered that are specifically focused on career preparation and or preparation for work*
- *How these programs and classes are integrated with academic courses and how they support academic achievement*
- *How the school addresses the needs of all students in career preparation and/or preparation for work, including needs unique to defined special populations of students*
- *The measurable outcomes of these programs and classes, and how they are evaluated*
- *State the primary representative of the district's CTE advisory committee and the industries represented on the committee*

Career Technical Education Participation (School Year 2011–12)

Measure	CTE Program Participation
Number of pupils participating in CTE	Data provided by the LEA
Percent of pupils completing a CTE program and earning a high school diploma	Data provided by the LEA
Percent of CTE courses sequenced or articulated between the school and institutions of postsecondary education	Data provided by the LEA

Courses for University of California and/or California State University Admission

UC/CSU Course Measure	Percent
2011–12 Students Enrolled in Courses Required for UC/CSU Admission	Data provided by the CDE
2010–11 Graduates Who Completed All Courses Required for UC/CSU Admission	Data provided by the CDE

Advanced Placement Courses (School Year 2011–12)

Subject	Number of AP Courses Offered*	Percent of Students In AP Courses
Computer Science	Data provided by the CDE	
English	Data provided by the CDE	
Fine and Performing Arts	Data provided by the CDE	
Foreign Language	Data provided by the CDE	
Mathematics	Data provided by the CDE	
Science	Data provided by the CDE	
Social Science	Data provided by the CDE	
All courses	Data provided by the CDE	

Note: Cells shaded in black do not require data.

* Where there are student course enrollments.

XII. Instructional Planning and Scheduling

Professional Development

This section provides information on the annual number of school days dedicated to staff development for the most recent three-year period.

Narrative provided by the LEA

Use this space to share information on the number of days provided for professional development and continuous professional growth in the most recent three year period. Questions that may be answered include:

- What are the primary/major areas of focus for staff development and specifically how were they selected? For example, were student achievement data used to determined the need for professional development in reading instruction?
- What are the methods by which professional development is delivered (e.g., after school workshops, conference attendance, individual mentoring, etc.)?
- How are teachers supported during implementation (e.g., through in-class coaching, teacher-principal meetings, student performance data reporting, etc.)?

Legal Reference for SARC Data Elements

Table Name from SARC Template	Authorizing Statute
District Contact Information	None
School Contact Information	None
School Description and Mission Statement	None
Opportunities for Parental Involvement	*Education Code* Section 33126 (b)(15)
Student Enrollment by Grade Level	None
Student Enrollment by Student Group	None
Average Class Size and Class Size Distribution (Elementary)	*Education Code* Section 33126 (b)(4)
Average Class Size and Class Size Distribution (Secondary)	*Education Code* Section 33126 (b)(4)
School Safety Plan	*Education Code* Section 32286
Suspensions and Expulsions	*Education Code (EC)* Section 33126 (b)(10)
School Facility Conditions and Planned Improvements	*Education Code* Section 33126 (b)(8) *Education Code* Sections 17002 (d), 17014, 17032.5, 17070.75 (a), 17089 (b)
School Facility Good Repair Status	*Education Code* Section 33126 (b)(8) *Education Code* Sections 17002 (d), 17014, 17032.5, 17070.75 (a), 17089 (b)
Teacher Credentials	*Education Code* Section 33126 (b)(5) Public Law 107-110 Section 1111 (h)(1)(C)(viii) Public Law 107-110 Section 1111 (h)(2)(B)
Teacher Misassignments and Vacant Teacher Positions	*Education Code* Section 33126 (b)(5)
Core Academic Classes Taught by Highly Qualified Teachers	Public Law 107-110 Section 1111 (h)(1)(C)(viii) Public Law 107-110 Section 1111 (h)(2)(B)
Academic Counselors and Other Support Staff	*Education Code* Section 33126 (b)(7)
Quality, Currency, Availability of Textbooks and Instructional Materials	*Education Code* Section 33126 (b)(6)(A) *Education Code* Section 33126 (b)(6)(B) *Education Code* Section 60119 (c)
Expenditures Per Pupil and School Site Teacher Salaries	*Education Code* Section 33126 (b)(3) *Education Code* Section 33126.15 (b) *Education Code* Section 33126.15 (c) *Education Code* Section 33126.15 (d)
Types of Services Funded	*Education Code* Section 33126 (b)(3)
Teacher and Administrative Salaries	*Education Code* Section 41409.3 (a) *Education Code* Section 41409.3 (b) *Education Code* Section 41409.3 (c) *Education Code* Section 41409.3 (d)(1) *Education Code* Section 41409.3 (d)(2) *Education Code* Section 41409.3 (d)(3) *Education Code* Section 41409.3 (e) *Education Code* Section 41409.3 (f) *Education Code* Section 41409.3 (g) *Education Code* Section 41409.3

	(h)
Standardized Testing and Reporting Results for All Students – Three Year Comparison	*Education Code* Section 33126 (b)(1)(A) Public Law 107-110 Section 1111 (h)(1)(C) Public Law 107-110 Section 1111 (h)(2)(B)
Standardized Testing and Reporting Results by Student Group – Most Recent Year	*Education Code* Section 33126 (b)(1)(A) Public Law 107-110 Section 1111 (h)(1)(C) Public Law 107-110 Section 1111 (h)(2)(B)
California High School Exit Examination Results for All Grade Ten Students – Three Year Comparison (if applicable)	Public Law 107-110 Section 1111 (h)(2)(B)
California High School Exit Examination Grade Ten Results by Student Group – Most Recent Year (if applicable)	Public Law 107-110 Section 1111 (h)(2)(B)
California Physical Fitness Test Results	*Education Code* Section 33126 (b)(1)(B)
Academic Performance Index Ranks – Three Year Comparison	*Education Code* Section 33126 (b)(13) *Education Code* Section 52056 (a) Public Law 107-110 Section 1111 (h)(1)(C)(v) Public Law 107-110 Section 1111 (h)(2)(B)(i)(II)
Academic Performance Index Growth by Student Group – Three Year Comparison	*Education* Code Section 33126 (b)(13) *Education Code* Section 52056 (b) Public Law 107-110 Section 1111 (h)(1)(C)(v) Public Law 107-110 Section 1111 (h)(2)(B)(i)
Academic Performance Index Growth by Student Group – Growth API Comparison	*Education* Code Section 33126 (b)(13) *Education Code* Section 52056 (b) Public Law 107-110 Section 1111 (h)(1)(C)(v) Public Law 107-110 Section 1111 (h)(2)(B)(i)
Adequate Yearly Progress Overall and by Criteria	Public Law 107-110 Section 1111 (h)(1)(C)(vii) Public Law 107-110 Section 1111 (h)(2)(B)(i)(I)
Federal Intervention Program	Public Law 107-110 Section 1111 (h)(2)(B)(i)(I) Public Law 107-110 Section 1111 (h)(2)(B)(ii)(I)
School Completion and Postsecondary Preparation: Admission Requirements for California's Public Universities	*Education Code* Section 33126.1 (b)(5)
Dropout Rate and Graduation Rate	*Education Code* Section 33126 (b)(2) Public Law 107-110 Section 1111 (h)(1)(C)(vi) Public Law 107-110 Section 1111 (h)(2)(B)
Completion of High School Graduation Requirements	*Education Code* Section 33126 (b)(14)
Career Technical Education Programs	*Education Code* Section 33126 (b)(16)(A), (B), (C), (D), and (E)
Career Technical Education Participation	*Education Code* Section 33126 (b)(16)(A), (B), (C), (D), and (E)
Courses for University of California and/or California State University Admission	*Education Code* Section 33126 (b)(11)
Advanced Placement Courses	*Education Code* Section 33126 (b)(12)
Professional Development	*Education Code* Section 33126 (b)(9)

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 6

ITEM #06

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Standardized Testing and Reporting Program: Adoption of Standards-based Tests in Spanish Performance Levels for Reading Language Arts in Grades Eight, Nine, Ten, Eleven, and for Algebra I and Geometry.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE(S)

In November 2011, Educational Testing Service (ETS) conducted a performance standards (levels) setting for the Standards-based Tests in Spanish (STS) for Reading Language Arts (RLA) in Grades Eight, Nine, Ten, Eleven, and Mathematics in Algebra I and Geometry.

The State Board of Education (SBE)-approved performance standards (levels) (Attachment 1) will be distributed for public review at the two public hearings held on July 9, 2012. The public hearings were held via video conference from two county offices of education. A third hearing will be held in conjunction with the July 2012 SBE meeting. A summary of the two video conferenced public hearings will be provided in an Item Addendum (Attachment 3).

RECOMMENDATION

The State Superintendent of Public Instruction (SSPI) recommends that the SBE consider comments received during the regional public hearings and take action to adopt the proposed performance standards (levels) for the Standards-based Tests in Spanish for RLA in grades eight through eleven, and for STS Algebra I and Geometry.

BRIEF HISTORY OF KEY ISSUES

California *Education Code* (*EC*) *Section* 60640 (g) requires pupils identified as English learners (ELs) who are enrolled in grades two through eleven to test in his or her primary language in addition to their grade-level California Standards Tests (CSTs) and/or California Modified Assessment (CMA).

The STS is the designated primary language test and is required for ELs in grades two through eleven who either receive instruction in Spanish or have been enrolled in a school in the United States for less than 12 months. The STS is currently not included in the federal and state accountability systems.

Also, *EC* Section 60605 requires the SBE to adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history–social science, and science and to conduct regional public hearings prior to the adoption of the performance levels.

In November 2011, ETS conducted a performance standard (level) setting for the STS for the subject areas of RLA grades eight through eleven and Algebra I and Geometry. The standard setting panel, composed of educators and stakeholders from throughout the state, was convened to recommend cut scores for the STS based on the blueprints and SBE-approved policy-level definitions.

The members of the standard setting panel were professionals who work with the diverse student population that make up STS-eligible test takers. The panel was composed of bilingual and biliterate content experts, teachers, and other education professionals experienced in working with the California content standards.

One of the most widely used approaches to standard setting in large scale assessments is the Bookmark Method. The Bookmark Method is an item mapping procedure in which panelists consider content covered by items in a specially constructed book where items are ordered from easiest to hardest based on operational performance data from the spring 2011 administration. Panelists enter markers (or bookmarks) indicating their judgment on the placement of cut scores. These judgments were guided by the SBE-adopted policy definitions to help the development of the performance levels. In California, the Bookmark Method has been used in standard setting for:

- CMA for ELA in grades three through eleven
- CMA for mathematics in grades three through seven
- CMA for science in grades five and eight
- CMA for life science in grade ten
- CMA for Algebra I
- CMA for Geometry
- STS for RLA in grades two through seven
- STS for mathematics in grades two through seven
- CSTs for science in grades five and eight
- CST for life science in grade ten
- CST for earth science
- CST for chemistry
- CST for physics
- CST for biology
- CST for integrated/coordinated science 1–4
- CST for history-social science

- CST for world history
- CST for United States history
- California High School Exit Examination
- California English Language Development Test

This method requires the standards setting process to be repeated in three rounds whereby panelists independently examine test items and place bookmarks at the points at which they consider students to have demonstrated sufficient knowledge and skills to be minimally competent at each performance level. The proposed cut score for below basic was set statistically after the standard setting to ensure that the lowest performance level was not set at a level students would likely achieve by chance.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

May 2012: At their May 2012 meeting, the SBE approved the SSPI's proposed performance standards (levels) for STS for RLA in grades eight through eleven, and for STS Algebra I and Geometry.

May 2010: At the May 2010 meeting, the SBE adopted performance standards (levels) for the STS for RLA and mathematics in grades five through eight; mathematics in grades six and seven; and science in grade eight.

May 2009: At the May 2009 meeting, the SBE adopted performance standards (levels) for the STS for RLA and mathematics in grades two, three, and four.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs associated with these activities are included in the current Standardized Testing and Reporting Program contract.

ATTACHMENT(S)

Attachment 1: Proposed Performance Standards (Levels), Standards-based Tests in Spanish for Reading Language Arts in Grades Eight, Nine, Ten, Eleven, and for Mathematics in Algebra I and Geometry (2 Pages)

Attachment 2: Announcement of Three Regional Public Hearings (2 Pages)

Attachment 3: Report of the Video Conferenced Regional Public Hearings for the Proposed Performance Standards (Levels) for the Standards-based Tests in Spanish for Reading Language Arts in Grades Eight, Nine, Ten, Eleven and for Algebra 1 and Geometry will be provided in an Item Addendum.

Proposed Performance Standards (Levels), Standards-based Tests in Spanish for Reading Language Arts in Grades Eight, Nine, Ten, and Eleven and for Mathematics in Algebra I and Geometry

Table 1
Reading Language Arts, Grades Eight Through Eleven

To be used in reporting the results of the Standards-based Tests in Spanish
for Reading language arts (grades 8, 9, 10 and 11), spring 2011 administration and thereafter

Grade Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above
8	6.8	**<23**	100	26.5	**23**	93.2	32.4	**36**	66.7	23.7	**49**	34.3	10.6	**60**	10.6
	Range 0 – 22			Range 23 – 35			Range 36 – 48			Range 49 – 59			Range 60 – 75		
9	8.1	**<23**	100	25.4	**23**	91.9	33.2	**36**	66.5	23.7	**49**	33.3	9.6	**59**	9.6
	Range 0 – 22			Range 23 – 35			Range 36 – 48			Range 49 – 58			Range 59 – 75		
10	5.7	**<23**	100	25.7	**23**	94.3	33.0	**37**	68.6	25.0	**49**	35.6	10.6	**58**	10.6
	Range 0 – 22			Range 23 – 36			Range 37 – 48			Range 49 – 57			Range 58 – 75		
11	6.7	**<23**	100	26.3	**23**	93.3	33.8	**37**	67.0	24.4	**48**	33.1	8.7	**57**	8.7
	Range 0 – 22			Range 23 – 36			Range 37 – 47			Range 48 – 56			Range 57 – 75		

Percent of students	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2011 administration.
Raw cut score	Minimum raw score needed to achieve this performance standard (level) on the 2011 administration of tests.
Percent at or above	Percent of students statewide who would be at or above this performance standard (level) on the basis of the results of the 2011 administration.

NOTE: The Standards-based Tests in Spanish for Reading language arts (grades eight through eleven) has 75 test items.

EXAMPLES OF HOW TO READ THIS CHART: (1) Students with a raw score of less than 23 would be designated as far below basic. (2) Raw scores of at least 60 in grade 8 would be designated as advanced.

*The raw cut score (i.e., number correct) will be converted to a scale score to maintain comparability of scores across future test forms. Therefore, the raw cut score associated with a particular performance level may vary somewhat on future test forms due to slight differences in the average difficulty of the items on one form compared to the average difficulty of items on other forms.

Table 2
Mathematics, Algebra I and Geometry

To be used in reporting the results of the Standards-based Tests in Spanish
for Algebra I and Geometry, spring 2011 administration and thereafter

Grade Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above
ALG	28.6	**<19**	100	30.3	**19**	71.4	28.9	**25**	41.0	9.7	**36**	12.1	2.4	**46**	2.4
	Range 0 – 18			Range 19 – 24			Range 25 – 35			Range 36 – 45			Range 46 – 65		
GEO	15.5	**<19**	100	30.5	**19**	84.5	28.3	**26**	54.1	19.2	**34**	25.8	6.6	**46**	6.6
	Range 0 – 18			Range 19 – 25			Range 26 – 33			Range 34 – 45			Range 46 – 65		

Percent of students	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2011 administration.
Raw cut score	Minimum raw score needed to achieve this performance standard (level) on the 2011 administration of tests.
Percent at or above	Percent of students statewide who would be at or above this performance standard (level) on the basis of the results of the 2011 administration.

NOTE: The Standards-based Tests in Spanish for Algebra I and Geometry has 65 test items.

EXAMPLES OF HOW TO READ THIS CHART: (1) Students with a raw score of less than 19 would be designated as far below basic. (2) Raw scores of at least 46 in Algebra I would be designated as advanced.

*The raw cut score (i.e., number correct) will be converted to a scale score to maintain comparability of scores across future test forms. Therefore, the raw cut score associated with a particular performance level may vary somewhat on future test forms due to slight differences in the average difficulty of the items on one form compared to the average difficulty of items on other forms.

California State Board of Education
May 30, 2012

ANNOUNCEMENT OF THREE REGIONAL PUBLIC HEARINGS

California State Board of Education

Proposed Performance Level Cut Scores for the
Standards-based Tests in Spanish:
Reading Language Arts in Grades Eight, Nine, Ten, and Eleven
and for Mathematics in Algebra I and Geometry

To be used in reporting the results of the Standards-based Tests in Spanish (STS) for Reading Language Arts (RLA) in grades eight, nine, ten, and eleven and Mathematics Algebra I and Geometry administered in spring 2011 and thereafter.

Monday, July 09, 2012 **9:30 a.m. – 10:15 a.m.** **Videoconference**	**Monday, July 09, 2012** **2:00 p.m. – 2:45 p.m.** **Videoconference**	**Wednesday July 18, 2012** **no earlier than 10:00 a.m.** **State Board of Education Meeting**
Santa Clara County Office of Education Saratoga Room 1290 Ridder Park Drive San Jose, CA 95131 408-453-6500	San Diego County Office of Education Joe Rindone Regional Technology Center 6401 Linda Vista Road San Diego, CA 92111 858-571-7259	California Department of Education 1430 N Street, Room 1101 Sacramento, CA 95814 916-319-0827

To: County and District Superintendents
Charter School Administrators
Other Interested Parties

California *Education Code* Section 60640 (g) requires pupils identified as English learners (ELs) who are enrolled in grades two through eleven to test in his or her primary language in addition to their grade-level California Standards Tests (CSTs) and/or California Modified Assessment (CMA).

The STS is aligned to the California content standards for RLA and Mathematics and was designed to replace the Aprenda 3, a norm-referenced test, as the designated primary language test.

The STS assesses the academic performance of students by measuring student achievement on the California content standards in their primary language. The STS is administered in grades two through eleven for RLA; in grades two through seven for mathematics; and for the Algebra I and Geometry end-of-course examinations.

In 2005, the State Board of Education (SBE) approved blueprints for the development of the STS for RLA and Mathematics in grades two through four. In 2006, blueprints were approved by the SBE for grades five through seven. In 2007, the SBE approved blueprints for RLA in grades

eight through eleven, for Algebra I, and for Geometry. In May 2009, the SBE adopted performance standards (levels) for the STS for RLA and STS for Mathematics in grades two through four. In May 2010, the SBE adopted performance standards (levels) for the STS for RLA and STS for Mathematics in grades five through seven.

At its May 2012 meeting, the SBE: 1) approved the State Superintendent of Public Instruction's (SSPI's) proposed performance standards (levels) for STS for RLA in grades eight through eleven, and for STS Algebra I and Geometry; and 2) directed CDE and SBE staff to conduct regional public hearings on the proposed performance standards (levels) for the STS for RLA in grades eight through eleven, and for STS Algebra I and Geometry to be brought to the SBE in July 2012 for adoption.

Information on the proposed cut scores for establishing the performance levels is available on the SBE Web site at http://www.cde.ca.gov/be/pn/pn/starpublichearings.asp. Three regional public hearings will be conducted for the purpose of gathering comments from a cross section of interested parties, including teachers, administrators, school board members and other local elected officials, business leaders, parents, guardians, and students. Comments and suggestions are sought on the proposed cut scores on the respective tests that will determine students' performance levels.

The regional public hearings at the Santa Clara County Office of Education and the San Diego County Office of Education on July 9, 2012, will be videoconferences. SBE members whose schedules permit them to attend and SBE and Department of Education staff will be prepared to accept public comments and input on a continuous basis during the videoconferences. Individuals are not required to prearrange a specific time to present their comments. Oral comments will be accepted as individuals arrive. Some delays may occur if many individuals arrive at the same time; patience will be appreciated if delays do occur.

The third and final regional public hearing will be conducted in Sacramento on July 18, 2012, in conjunction with the SBE's regular July meeting. It will begin no earlier than 10:00 a.m. but will last only as long as necessary to hear from those who wish to orally testify at that time. The SBE may, at that time, make changes to the proposed performance standards (levels) based on public input and board discussion.

Individuals need not attend a regional public hearing to present their comments. The SBE will be pleased to receive comments by mail, e-mail, or fax. See below for contact information.

Mail:	**E-mail:**	**Fax:**
California State Board of Education Attention: Patricia de Cos 1430 N Street, Room 5111 Sacramento, CA 95814	pdecos@cde.ca.gov	916-319-0175

Please help us publicize these regional public hearings!

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 7

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

This standing item allows the California Department of Education (CDE) to brief the State Board of Education (SBE) on timely topics related to the Elementary and Secondary Education Act (ESEA) and other federal programs.

RECOMMENDATION

The CDE recommends that the SBE take action as deemed necessary and appropriate. No specific action is recommended at this time.

BRIEF HISTORY OF KEY ISSUES

None.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

None.

FISCAL ANALYSIS (AS APPROPRIATE)

Any state or local educational agency that does not abide by the mandates or provisions of ESEA is at risk of losing federal funding.

ATTACHMENT(S)

None.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 8

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Elementary and Secondary Education Act: School Improvement Grant: Conditional Approval of Renewal of Sub-grants Under Section 1003(g) for Year 3 of Cohort 1 Local Educational Agencies and Schools; and Request a Waiver Under Title I, Part A Section 9401 to Carry Over 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Renewal of Funding for Year 3 of Cohort 1

Continuation of Cohort 1 funding is contingent on each Cohort 1 School Improvement Grant (SIG) local educational agency (LEA) meeting annual goals established by the LEA for student achievement on the State's Elementary and Secondary Education Act (ESEA) assessments in both reading/language arts and mathematics and making progress on the leading indicators described in the final requirements. In addition, the California Department of Education (CDE) has discretion to examine factors such as the fidelity with which it is implementing the model in deciding whether to renew the LEA's SIG grant with respect to a particular SIG school. This will be the third and final year of SIG funding for Cohort 1 SIG LEAs. If approved by the State Board of Education (SBE), funds will be available through September 30, 2013.

Waiver to Carry Over 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation

The U.S. Department of Education (ED) approved California's request to carry over fiscal year (FY) 2010 SIG funds and to award those funds to LEAs through a competition conducted during the 2011–12 school year. As a condition of the waiver, California assured the ED that after receiving its FY 2011 SIG funds, it would request a waiver to extend the period of availability of those funds until September 30, 2014, so that those funds may be used for continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–12 school year. In addition, California assured the ED that it would not combine its FY 2011 SIG funds with its FY 2010 to make larger awards, or to award grants to a greater number of LEAs for a greater number of schools, through the competition conducted in the 2011–12 school year.

RECOMMENDATION

Renewal of Funding for Year 3 of Cohort 1

The CDE recommends that the State Board of Education (SBE) authorize SBE President Michael W. Kirst, in consultation with State Superintendent of Public Instruction (SSPI) Tom Torlakson, to approve Year 3 sub-grants for FY 2009 Cohort 1 SIG LEAs, with funding contingent on the LEA submitting, within 45 business days of receipt of notification, a complete Renewal Application indicating progress in meeting annual goals established by the LEA for student achievement in reading/language arts and mathematics and/or making progress on the leading indicators described in Section III of the final requirements. FY 2009 SIG funds are available until September 30, 2013. The list of Cohort 1 LEAs and schools conditionally recommended for Year 3 sub-grants is provided as Attachment 1. The Cohort 1 Year 3 LEA Renewal Application is provided as Attachment 2.

Waiver to Carry Over 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation

Secondly, the CDE recommends that the SBE approve a request for a waiver to carry over 100 percent of FY 2011 funds until September 30, 2014, so that those funds may be used for Year 2 continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–12 school year. (See Attachment 4.) The third year (2014–15) of the grant award period will be funded using the FY 2012 allocation.

BRIEF HISTORY OF KEY ISSUES

Renewal of Funding for Year 3 of Cohort 1

Each participating SIG LEA is required to establish clear and measurable goals for student achievement on the State's ESEA assessments in reading/language arts and mathematics. Subsequently, the LEA must monitor each Tier I and Tier II school that receives SIG funds to determine whether the school is meeting its annual goals and is making progress on the leading indicators described in Section III of the final requirements. Please visit the ED Web site at http://www2.ed.gov/programs/sif/2010-27313.pdf.

In deciding whether to renew an LEA's SIG, the CDE is required to review annually the LEA's progress on meeting its annual school goals for student achievement and its progress on the leading indicators for each of its Tier I and Tier II schools. In addition, the CDE has discretion to examine factors such as the fidelity with which the LEA is implementing the model with respect to a particular SIG school. In cases in which one or more of the schools served in an LEA are not meeting their improvement goals, the LEA's sub-grant will be considered for a reduction equivalent to the annual award for non-achieving schools with the intent that the schools no longer receive funds.

Waiver to Carry Over 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation

On September 20, 2011, the ED approved California's request to carry over FY 2010 SIG funds and to award those funds to Cohort 2 LEAs through a competition conducted during the 2011–12 school year. (See Attachment 3.) In particular, pursuant to Section 9401 of the ESEA, the ED granted a waiver of Section 421(b) of the General Education Provisions Act (GEPA) (20 *United States Code* Section 1225[b]) to extend the period of availability of California's FY 2010 SIG funds to September 30, 2013, with the following conditions:

1. After receiving its FY 2011 and FY 2012 SIG funds, respectively, California will request waivers to extend the periods of availability of those funds until September 30, 2014, and September 30, 2015, respectively, so that those funds may be used for continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–12 school year.

2. California will not combine its FY 2011 SIG funds with its FY 2010 to make larger awards, or to award grants to a greater number of LEAs for a greater number of schools, through the competition conducted in the 2011–12 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Renewal of Funding for Year 3 of Cohort 1

At its September 2011 meeting, the SBE took action to authorize SBE President Michael W. Kirst, in conjunction with SSPI Tom Torlakson, to approve funding for Year 2 of Cohort 1 SIG LEAs submitting a corrective action plan that addressed all SIG fiscal and programmatic findings. In response to the SBE's September 2011 action, the CDE reviewed the corrective action plans and provided ongoing technical assistance to each LEA to achieve programmatic and fiscal resolution. Pursuant to SBE action, Cohort 1 Year 2 Grant Award Notifications and funding were released once all fiscal and programmatic findings had been resolved.

At its July 2011 meeting, the SBE took action to conditionally renew funding for Year 2 Cohort 1 SIG LEAs contingent on a corrective action plan to address implementation concerns identified during the monitoring and review process. In response to the SBE's July 2011 action, the CDE developed a comprehensive timeline for creating corrective action plan documents and providing feedback and technical assistance regarding SIG fiscal and programmatic findings to SIG Cohort 1 sub-grantees.

Waiver to Carry Over 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation

At its July 2011 meeting, the SBE took action to approve a waiver request to carry over 100 percent of the FY 2010 SIG allocation to be awarded along with the FY 2011

allocation for awards beginning in the 2012–13 school year. A copy of the ED's approval of the SIG Waiver and its conditions is provided as Attachment 3.

FISCAL ANALYSIS (AS APPROPRIATE)

Renewal of Funding for Year 3 of Cohort 1

SIG funds provide LEAs with grants ranging from $50,000 to $2 million per year per school for up to three years. A maximum of $415,844,376 is available under Section 1003(g) for this cohort of schools for a three-year period beginning in the 2010–11 school year.

Carryover of 100 Percent of the Fiscal Year 2011 Cohort 2 School Improvement Grant Allocation

The SIG funds were anticipated to provide LEAs with grants ranging from $50,000 to $2 million per school per year. A maximum of $69 million is available under Section 1003(g) for FY 2010. If the waiver is approved, the $63 million in FY 2011 funds will be used to make Year 2 only awards of a three-year grant, with the continuation award in Year 3 coming from the FY 2012 appropriation.

ATTACHMENT(S)

Attachment 1: The Cohort 1 Local Educational Agencies and Schools Conditionally Recommended for Year 3 Renewal of School Improvement Grant Sub-grants (5 Pages)

Attachment 2: School Improvement Grant Cohort 1 Year 3 LEA Renewal Application (4 Pages)

Attachment 3: September 20, 2011, letter from Michael Yudin, Acting Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, regarding California's Approved School Improvement Grant Waiver to carry over 100 percent of FY 2010 SIG Allocation and its Conditions. (2 Pages)

Attachment 4: DRAFT July 23, 2012, letter from Tom Torlakson, State Superintendent of Public Instruction, California Department of Education, and Michael W. Kirst, President, California State Board of Education, regarding California's School Improvement Grant Waiver request to carry over 100 percent of fiscal year 2011 School Improvement Grant Allocation. (2 Pages)

The Cohort 1 Local Educational Agencies and Schools Conditionally Recommended for Year 3 Renewal of School Improvement Grant Sub-grants

Region	Charter	LEA / School	Tier	Model	Year 3 Request
11		**ABC Unified (centralized services)**			$98,665.00
		Pharis F. Fedde Middle	II	Transformation	$1,136,193.00
					$1,234,858.00
8		**Adelante Charter (centralized services)**			$0.00
	Yes	Adelante Charter	I	Transformation	$265,564.00
					$265,564.00
10		**Alvord Unified (centralized services)**			$0.00
		Norte Vista High	II	Turnaround	$1,847,389.61
					$1,847,389.61
11		**Antelope Valley Union High (centralized services)**			$91,259.00
		Eastside High	II	Transformation	$1,629,000.00
		Littlerock High	II	Transformation	$1,702,900.00
					$3,423,159.00
5		**Aromas/San Juan Unified (centralized services)**			$140,257.00
		San Juan	I	Transformation	$1,289,334.00
					$1,429,591.00
8		**Buttonwillow Union Elementary (centralized services)**			$0.00
		Buttonwillow Elementary	I	Transformation	$399,318.00
					$399,318.00
5		**Chualar Union Elementary (centralized services)**			$92,203.00
		Chualar Elementary	I	Transformation	$208,868.00
					$301,071.00
10		**Coachella Valley Unified (centralized services)**			$451,818.00
		West Shores High	I	Turnaround	$1,214,848.00
					$1,666,666.00
9		**Escondido Union Elementary (centralized services)**			$63,658.00
		Felicita Elementary	I	Turnaround	$1,476,974.00
					$1,540,632.00
10		**Fontana Unified (centralized services)**			$0.00
		Fontana A. B. Miller High	II	Transformation	$2,000,000.00
					$2,000,000.00

Region	Charter	LEA / School	Tier	Model	Year 3 Request
7		**Fresno Unified (centralized services)**			$392,229.00
		Carver Academy	I	Turnaround	$863,494.00
		Webster Elementary	I	Turnaround	$1,690,088.12
		Yosemite Middle	I	Turnaround	$1,899,006.80
					$4,844,817.92
5		**Greenfield Union Elementary (centralized services)**			$349,410.00
		Mary Chapa Literacy and Technology Academy	I	Transformation	$240,853.50
		El Camino Real Science and Technology Academy	I	Transformation	$240,853.50
		Vista Verde Middle	I	Transformation	$500,180.00
					$1,331,297.00
4		**Hayward Unified (centralized services)**			$390,224.00
		Burbank Elementary	I	Transformation	$1,587,115.00
		Longwood Elementary	I	Turnaround	$1,626,978.00
		Tennyson High	II	Transformation	$1,795,293.00
					$5,399,610.00
9		**King-Chavez Arts Academy (centralized services)**			$465,262.50
	Yes	King-Chavez Arts Academy	I	Transformation	$689,688.00
					$1,154,950.50
4		**La Honda-Pescadero Unified (centralized services)**			$113,889.00
		Pescadero Elementary and Middle	I	Transformation	$681,347.01
					$795,236.01
7		**Lakeside Union Elementary (centralized services)**			$63,933.00
		Lakeside Elementary	I	Transformation	$744,272.00
					$808,205.00
7		**Lindsay Unified (centralized services)**			$36,834.00
		Jefferson Elementary	I	Turnaround	$730,337.00
					$767,171.00
11		**Los Angeles Unified (centralized services)**			$894,434.00
		Edwin Markham Middle	I	Restart	$1,809,517.00
		Florence Griffith Joyner Elementary	I	Restart	$1,836,952.00
		Gardena Senior High	I	Transformation	$1,623,814.00
		George Washington Carver Middle	I	Restart	$1,842,185.00
		Hillcrest Drive Elementary	I	Transformation	$1,842,612.00
		Maywood Academy High	II	Transformation	$1,890,906.00
		Robert Louis Stevenson Middle	I	Restart	$1,842,358.00
		Samuel Gompers Middle	I	Restart	$1,842,056.00
		Thomas Jefferson Senior High	I	Transformation	$1,842,618.00

Region	Charter	LEA / School	Tier	Model	Year 3 Request
					$17,267,452.00
3		**Marysville Joint Unified (centralized services)**			$58,763.00
		Ella Elementary	I	Turnaround	$1,147,275.00
					$1,206,038.00
8		**McFarland Unified (centralized services)**			$129,600.00
		McFarland High	I	Transformation	$997,852.00
					$1,127,452.00
5		**Monterey Peninsula Unified (centralized services)**			$1,801,352.00
		Highland Elementary	I	Turnaround	$1,311,643.00
		Martin Luther King	I	Turnaround	$1,179,299.62
		Seaside High	II	Turnaround	$1,670,540.00
					$5,962,834.62
10		**Moreno Valley Unified (centralized services)**			$9,431.00
		March Mountain High	II	Transformation	$503,787.00
					$513,218.00
4		**Mt. Diablo Unified (centralized services)**			$1,089,208.00
		Bel Air Elementary	I	Transformation	$1,775,207.00
		Rio Vista Elementary	I	Transformation	$444,592.00
		Shore Acres Elementary	I	Transformation	$1,748,603.20
					$5,057,610.20
4		**Oakland Unified (centralized services)**			$153,333.00
		Elmhurst Community Prep	I	Transformation	$1,398,343.46
		United for Success Academy	I	Transformation	$1,469,825.00
					$3,021,501.46
5		**Pajaro Valley Unified (centralized services)**			$694,067.00
		Calabasas Elementary	I	Transformation	$319,763.00
		Hall District Elementary	I	Transformation	$345,866.00
		T. S. MacQuiddy Elementary	I	Transformation	$406,011.00
					$1,765,707.00
11		**Palmdale Elementary (centralized services)**			$260,222.00
		Cactus Middle	II	Turnaround	$1,737,829.00
		Tumbleweed Elementary	I	Turnaround	$1,703,084.00
					$3,701,135.00
11		**Pomona Unified (centralized services)**			$565,157.00
		Emerson Middle	II	Transformation	$1,288,431.92
		Fremont Middle	II	Transformation	$1,780,654.71
		Pomona Senior High	II	Transformation	$1,323,598.68
					$4,957,842.31

Region	Charter	LEA / School	Tier	Model	Year 3 Request
4		**Ravenswood City Elementary (centralized services)**			$283,611.00
		Costano Elementary	I	Turnaround	$1,448,611.49
		Ronald McNair Intermediate	I	Turnaround	$1,358,062.00
					$3,090,284.49
10		**Riverside COE (centralized services)**			$288,234.00
		Riverside County Community	I	Transformation	$1,537,167.00
					$1,825,401.00
10		**San Bernardino City Unified (centralized services)**			$1,554,087.00
		Arroyo Valley High	II	Transformation	$2,000,000.00
		Barton Elementary	I	Turnaround	$1,797,470.00
		Davidson Elementary	I	Transformation	$1,142,900.00
		Hunt Elementary	I	Turnaround	$1,177,187.00
		Marshall Elementary	I	Turnaround	$1,652,010.00
		Pacific High	I	Transformation	$2,000,000.00
		Rio Vista Elementary	I	Transformation	$1,300,030.00
		San Gorgonio High	II	Transformation	$2,000,000.00
		Serrano Middle	II	Turnaround	$1,522,140.00
		Shandin Hills Middle	II	Turnaround	$1,558,500.00
		Wilson Elementary	I	Turnaround	$800,030.00
					$18,504,354.00
9		**San Diego Unified (centralized services)**			$32,428.00
		Burbank Elementary (San Diego)	I	Transformation	$1,397,779.00
					$1,430,207.00
4		**San Francisco Unified (centralized services)**			$1,023,916.00
		Bryant Elementary	I	Turnaround	$1,534,679.00
		Cesar Chavez Elementary	I	Transformation	$1,714,914.00
		Everett Middle	I	Turnaround	$1,197,913.00
		George Washington Carver	I	Turnaround	$1,540,174.00
		Horace Mann Middle	I	Transformation	$935,484.00
		John Muir Elementary	I	Turnaround	$1,434,467.00
		John O'Connell Alternative High	II	Transformation	$1,081,012.00
		Mission High	II	Transformation	$1,637,443.00
		Paul Revere Elementary	I	Transformation	$1,614,239.00
					$13,714,241.00
3		**San Juan Unified (centralized services)**			$202,046.60
		Encina Preparatory High	II	Turnaround	$891,083.00
					$1,093,129.60
4		**San Lorenzo Unified (centralized services)**			$31,881.00
		Hillside Elementary	I	Transformation	$521,532.00
					$553,413.00

Region	Charter	LEA / School	Tier	Model	Year 3 Request
9		**Santa Ana Unified (centralized services)**			$154,725.00
		Century High	I	Transformation	$1,972,228.00
		Saddleback High	II	Transformation	$1,972,228.00
		Santa Ana High	II	Transformation	$1,972,228.00
		Sierra Intermediate	II	Transformation	$1,811,515.00
		Valley High	I	Transformation	$1,972,228.00
		Willard Intermediate	I	Transformation	$1,811,515.00
					$11,666,667.00
8		**Semitropic Elementary (centralized services)**			$1,333,333.00
		Semitropic Elementary	I	Transformation	$1,155,291.00
					$2,488,624.00
5		**Soledad Unified (centralized services)**			$77,493.00
		Rose Ferrero Elementary	I	Turnaround	$1,525,471.00
					$1,602,964.00
3		**Twin Rivers Unified (centralized services)**			$258,989.00
		Highlands High	II	Transformation	$1,297,580.00
					$1,556,569.00
8		**Wasco Union Elementary (centralized services)**			$29,169.00
		Palm Avenue Elementary	I	Transformation	$1,019,111.00
					$1,048,280.00
4		**West Contra Costa Unified (centralized services)**			$111,957.00
		Lincoln Elementary	I	Turnaround	$1,221,377.00
					$1,333,334.00

CALIFORNIA DEPARTMENT OF EDUCATION
TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION
MICHAEL W. KIRST, President
916-319-0827

1430 N Street Sacramento, CA 95814-5901

DRAFT July 23, 2012

Deborah Delisle, Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Assistant Secretary Delisle:

The State of California hereby submits for your consideration a waiver requesting to extend the availability of California's fiscal year (FY) 2011 School Improvement Grant (SIG) allocation to September 30, 2014.

The State is requesting this waiver pursuant to the conditions of California's September 20, 2011, letter from Acting Assistant Secretary Michael Yudin regarding approval of California's waiver to carry over 100 percent of FY 2010 SIG funds.

The State assures that it will not combine FY 2011 SIG funds with its FY 2010 funds to make larger awards, or to award grants to a greater number of LEAs or for a greater number of schools, through the competition conducted on the 2011 school year; additionally, after receiving its FY 2012 SIG funds, California will request waivers to extend the period of availability of those funds until September 30, 2015, so that those funds may be used for continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–12 school year.

The State also assures that it provided all schools in the state that are eligible to receive a SIG grant, as well as the public, with notice and a reasonable opportunity to comment on this request and has attached a copy of that notice. This notice was made available to the public in the manner in which the State customarily provides such notice and information to the public (e.g., by publishing a notice in the newspaper; by posting information on its Web site). The State is submitting copies of all public comments.

If you have any questions regarding this subject, please contact Deborah V.H. Sigman, Deputy Superintendent, District, School, and Innovation Branch, by phone at 916-319-0812 or by e-mail at dsigman@cde.ca.gov.

Sincerely,

Tom Torlakson
State Superintendent of Public Instruction
California Department of Education

Michael W. Kirst
President
California State Board of Education

TT/MK:bs

School Improvement Grant
Cohort 1 Year 3 Renewal Application

Instructions

Renewal of Year 3 School Improvement Grant (SIG) funding is contingent on the local educational agency (LEA) submitting, within 45 business days of receipt of notification, a complete Renewal Application indicating progress in meeting annual goals established by the LEA for student achievement in reading/language arts and mathematics and/or making progress on the leading indicators described in Section III of the final requirements. In cases in which one or more of the schools served in an LEA is not meeting their locally developed SIG student achievement goals, the LEA's sub-grant will be considered for a reduction equivalent to the annual award for non-achieving school(s) with the intent that the school(s) no longer receive funds.

1. School and Sub-group Student Achievement Goals on the State's Assessments in Reading/Language Arts and Mathematics using Standardized Testing and Reporting (STAR) Program data, AYP, and API

This report provides the LEA with an opportunity to identify its established school and sub-group student achievement goals in reading/language arts and mathematics and describe the extent to which each goal was met. In addition, the LEA will identify supporting data used to measure each goal. In cases in which the LEA did not meet its school and sub-group goals in reading/language arts and mathematics, the LEA will discuss the actions it has taken or will take in order to meet its goals. There are two worksheets for ELA and Math goals. Each school must submit one ELA goal worksheet (tab labeled ELA Goals) and one Math goal worksheet (tab labeled Math Goals).

2. Leading Indicators

For each Tier I and Tier II school receiving the SIG, the LEA will report its progress on the nine Leading Indicators established by the U.S. Department of Education (ED). In cases in which the LEA has not made progress, it will discuss the actions it has taken or will take in order to achieve its goals. The LEA must submit a single worksheet that includes data for all schools (tab labeled Nine Leading Indicators). For data that is not locally collected or available, please mark NA.

3. Timeline

The table below provides a timeline for submitting the Year 3 Renewal Application. This timeline provides the LEA with an opportunity to work with its assigned School Turnaround Office (STO) consultant who is available to provide additional technical assistance and support to the LEA as it completes the renewal process. Grant award notifications will be issued to each LEA individually upon verification of a complete application. Funds are available through September 30, 2013.

Year 3 Renewal Application LEA Notification	Monday, July 23, 2012
Renewal Application Submission Date	Monday, September 24, 2012

School Improvement Grant
ELA Student Achievement Goals

Local Educational Agency:	
School:	
CDS:	
ELA School-wide Goal (200 word limit):	**Met/Making Progress/Not Met (200 word limit):**
Supporting Data (must include Standardized Testing and Reporting data, AYP, and API) (265 word limit):	
If the goal was not met, what actions has the LEA taken, or will the LEA take? (265 word limit):	
ELA Sub-group Goal (200 word limit):	**Met/Making Progress/Not Met (200 word limit):**
Supporting Data (must include Standardized Testing and Reporting data, AYP, and API) (265 word limit):	
If the goal was not met, what actions has the LEA taken, or will the LEA take? (265 word limit):	

School Improvement Grant
Math Student Achievement Goals

Local Educational Agency:	
School:	
CDS:	
Math School-wide Goal (200 word limit):	**Met/Making Progress/Not Met (200 word limit):**
Supporting Data (must include Standardized Testing and Reporting data, AYP, and API) (265 word limit):	
If the goal was not met, what actions has the LEA taken, or will the LEA take? (265 word limit):	
Math Sub-group Goal (200 word limit):	**Met/Making Progress/Not Met (200 word limit):**
Supporting Data (must include Standardized Testing and Reporting data, AYP, and API) (265 word limit):	
If the goal was not met, what actions has the LEA taken, or will the LEA take? (265 word limit):	

School Improvement Grant
Nine Leading Indicators

LEA:			2009-2010 (Base Year)									2010-2011 (Year 1)									2011-2012 (Year 2)								
CDS Code	School(s)	Model	Number of Minutes in School Year	Student Participation Rate on State Assessments	Dropout Rate	Student Attendance Rate	Percent of Students Completing Advanced Coursework	Discipline Incidents	Truants	Distribution of Teachers by Performance Level on LEA's Evaluation System	Teacher Attendance Rate	Number of Minutes in School Year	Student Participation Rate on State Assessments	Dropout Rate	Student Attendance Rate	Percent of Students Completing Advanced Coursework	Discipline Incidents	Truants	Distribution of Teachers by Performance Level on LEA's Evaluation System	Teacher Attendance Rate	Number of Minutes in School Year	Student Participation Rate on State Assessments	Dropout Rate	Student Attendance Rate	Percent of Students Completing Advanced Coursework	Discipline Incidents	Truants	Distribution of Teachers by Performance Level on LEA's Evaluation System	Teacher Attendance Rate

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 2 0 2011 ASSISTANT SECRETARY

The Honorable Tom Torlakson
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, California 95814-5901

Dear Superintendent Torlakson:

I am writing in response to California's request for a waiver to carry over the fiscal year (FY) 2010 School Improvement Grant (SIG) funds California received under section 1003(g) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and to award those funds to local educational agencies (LEAs) through a competition to be conducted during the 2011–2012 school year. Although California already conducted its FY 2010 competition, California is requesting this waiver because it did not receive approvable LEA applications through the competition.

The U.S. Department of Education (Department) wants to promote a thoughtful and comprehensive approach to the implementation of SIG. In accordance with that goal, I am approving California's request to carry over FY 2010 SIG funds and to award those funds to LEAs through a competition conducted during the 2011-2012 school year. In particular, pursuant to my authority under section 9401 of the ESEA, I am granting a waiver of section 421(b) of the General Education Provisions Act (GEPA) (20 U.S.C. § 1225(b)) to extend the period of availability of California's FY 2010 SIG funds to September 30, 2013. This waiver is granted on the following conditions:

1. Within 30 days of the approval of this waiver request, California will submit an amendment to its FY 2010 SIG application that updates the timeline to include the dates for its second LEA competition that includes a description of how the SEA will support LEAs to improve their applications to meet the SIG requirements;
2. The revised timeline for the LEA competition will ensure that awards are made no later than February 2012;
3. California will not obligate or draw down any of its FY 2010 SIG funds until California receives approval of the amendment to its FY 2010 SIG application;
4. Through the competition conducted in the 2011–2012 school year, California will award FY 2010 SIG funds to LEAs in amounts sufficient to enable the LEAs to conduct pre-implementation, should an LEA select to do so, and the first year of full implementation of the school intervention models in the Tier I and Tier II schools for which they are awarded funds;

5. California will not combine its FY 2011 SIG funds with its FY 2010 funds to make larger awards, or to award grants to a greater number of LEAs or for a greater number of schools, through the competition conducted in the 2011–2012 school year; and
6. After receiving its FY 2011 and FY 2012 SIG funds, respectively, California will request waivers to extend the periods of availability of those funds until September 30, 2014 and September 30, 2015, respectively, so that those funds may be used for continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–2012 school year.

I appreciate the work you are doing to improve California's persistently lowest-achieving schools and to provide a high-quality education for all of your students. If you have any questions regarding this matter, please contact Carlas McCauley at carlas.mccauley@ed.gov or 202-260-0824.

Sincerely,

Michael Yudin
Acting Assistant Secretary
Office of Elementary and Secondary Education

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 9

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2012–14 State Board of Education-Approved Supplemental Educational Services Provider List Based on Appeal; and the Conditional Approval of Local Educational Agencies Identified for Improvement Based on a Waiver Request Under Title I, Part A Section 9401 of the Elementary and Secondary Education Act.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Supplemental Educational Services

Section 1116(e)(4)(C) of the Elementary and Secondary Education Act (ESEA) requires the State Educational Agency (SEA) to develop and maintain a list of approved Supplemental Educational Services (SES) providers to provide services to eligible students. The 34 *Code of Federal Regulations* (34 *CFR),* Section 200.47(b)(1)(iv)(A) and (B) prohibits an SEA from approving local educational agencies (LEAs) identified for improvement or corrective action as providers of SES; however, the SEA may request a waiver of these provisions, and a waiver request was submitted to the U.S. Department of Education (ED) on May 2, 2012.

RECOMMENDATION

Supplemental Educational Services Providers Approval

The CDE recommends that:

- The State Board of Education (SBE) approve SES providers on appeal from the 2012 SES Request for Applications (RFA) for a two-year period beginning July 1, 2012, through June 30, 2014. The 2012 SES RFA is based on the final adopted *California Code of Regulations,* Title 5 (5 *CCR*), Section 13075.2. The summary and list of the providers recommended for approval is provided as Attachment 1.

- The SBE grant conditional approval to LEAs identified for improvement or corrective action that submitted an application in response to the 2012 re-released SES RFA, contingent on approval of the May 2, 2012, waiver request submitted to the ED to allow the SEA to grant approval to LEAs identified for

improvement or corrective action. The summary list of LEAs recommended for approval is provided as Attachment 2.

BRIEF HISTORY OF KEY ISSUES

Supplemental Educational Services Providers Approval

Title I, Part A Section 1116(e)(1) and (4) of the ESEA requires that an SES provider be approved by the SBE before it can offer tutoring services to low-income students in schools advancing to Program Improvement (PI) Year 2 and beyond. The CDE has been responsible for annually establishing and maintaining a list of SBE-approved SES providers, as described in Section 1116(e)(4) of the ESEA, beginning with the SBE approval of the first cohort at the June 2003 SBE meeting.

Local Educational Agency Eligibility to Apply as SES Providers

Title I regulations currently preclude LEAs identified for improvement from serving as SES providers. The regulatory waiver of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B) would allow all interested LEAs identified for improvement or corrective action to apply to serve as SES providers.

The SEA that receives these waivers must provide information to the ED by September 30, 2013, that sets forth the name and National Center for Education Statistics District Identification Number for each LEA implementing the waivers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its May 2011 meeting, the SBE approved 161 providers out of 209 applicants to serve as SES providers from July 1, 2011, through June 30, 2013. The SBE also authorized the CDE to request a waiver of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B) to allow PI LEAs to serve as providers for the 2011–13 school years.

The combined total of SBE-approved providers authorized to provide SES for either the 2009–11 or 2010–12 cycle is currently 253.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to the state. An LEA contracts with SBE-approved SES providers to provide tutoring that is free to students enrolled in schools in PI Years 2 through 5 and beyond. An LEA must spend an amount equal to a minimum of 5 percent each to a maximum of 20 percent total for school-choice transportation and SES services.

ATTACHMENT(S)

Attachment 1: California Department of Education 2012–14 Supplemental Educational Services Provider List Recommended on Appeal (1 Page)

Attachment 2: California Department of Education Recommended 2012–14 Local Educational Agencies Identified for Improvement Supplemental Educational Services Provider Applicant List (1 Page)

California Department of Education 2012–14 Supplemental Educational Services Provider List Recommended on Appeal

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
! 123 ! Maestros Latinos, Inc.	X	X		X	X		For-profit agency
Fresno CORAL, Inc. DBA CORAL	X			X			Non-profit agency
Keep Hope Alive Projects	X	X		X	X		Non-profit agency
New Hope Academy of Change	X	X		X	X		Non-profit agency
R.T. Fisher Educational Enterprises, Inc./The QUAD	X	X	X	X	X		For-profit agency
Super Stars Literacy	X			X	X		Non-profit agency

California Department of Education
Recommended 2012–14 Local Educational Agencies Identified for Improvement
Supplemental Educational Services Provider Applicant List

Local Educational Agencies	English-Language Arts	Math	Science	English Learners	SWD	Year Identified for Improvement
Anaheim Union High School District	X	X		X	X	2008–09
Berkeley Unified School District	X			X	X	2004–05
Healdsburg Unified School District	X			X	X	2005–06
Hollister Unified School District	X			X	X	2004–05
Hueneme Elementary School District	X			X	X	2004–05
Lake Tahoe Unified School District	X	X		X	X	2007–08
Los Angeles Unified School District	X	X		X	X	2004–05
Merced City School District	X			X	X	2004–05
Mt. Diablo Unified School District	X	X	X	X	X	2011–12
Ramona Unified School District	X	X		X	X	2011–12
Salinas City Elementary School District	X	X		X	X	2004–05
Santa Maria-Bonita School District	X	X		X	X	2004–05
Torrance Unified School District	X	X		X	X	2011–12

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Approve Proposed Changes to the Governing Policy of the Title I Committee of Practitioners and Appoint Members to the Title I Committee of Practitioners.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

This item provides proposed changes to the governing policy of the Title I Committee of Practitioners (COP) and recommends individuals for staggered terms to the COP. Requirements and duties of the COP are included in the Elementary and Secondary Education Act (ESEA) in Part I of General Provisions at Subpart 1903 available on the U.S. Department of Education ESEA Part I – General Provisions Web page at http://www2.ed.gov/policy/elsec/leg/esea02/pg18.html.

RECOMMENDATION

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

(a) Approve proposed changes to the recommended composition and governing policies of the Title I COP, provided as Attachment 1, and

(b) Appoint new members to staggered terms on the COP.

The recommended appointees will be provided as Attachment 2 in an Item Addendum.

BRIEF HISTORY OF KEY ISSUES

The COP is a federally-mandated advisory committee whose primary function is to "advise the State in carrying out its responsibilities under this Title" (i.e., Title I) by reviewing any proposed state rules and regulations. Currently, all terms of the COP have expired.

Prior to the July SBE meeting, the SBE Ad-Hoc Committee for the Title I Committee of Practitioners Application Review will meet on July 13, 2012, to consider the applications received. Copies of application materials are available on the SBE Web page at http://www.cde.ca.gov/be/.

Section 1903 of the ESEA (20 *United States Code* 6573) stipulates that "each such committee shall include as a majority of its members, representatives from local educational agencies. The law identifies six appointment categories, but is silent about the total number of appointees.

Membership in the California COP has varied over the past 20 years, but was reduced in 2008 to 19 positions. (See Column 2 below.) This item proposes that in light of the costs of conducting COP meetings, the membership should be reduced to 13 positions. In addition, the recommended policy grants greater flexibility in scheduling meetings of the COP.

Since 2008, administrators, teachers, pupil services personnel and local board members have constituted 15 of the 19 members on the committee. In the proposed configuration, they will constitute nine members, thus maintaining a majority of representatives from local educational agencies. (See Column 3 below.) School and district administrators are proposed to remain the largest group on the committee. As key implementers of Title I, they are likely to be most knowledgeable about rules and regulations, and can inform the SBE regarding potential implementation issues. The number of parent and private school representatives is not proposed to change from 2008.

Column 1: Member Categories	Column 2: Current Number of Positions	Column 3: Proposed Number of Positions
Administrators	7	4
Teachers	4	3
Parents	2	2
Local board members	2	1
Private school representatives	2	2
Pupil services personnel representatives	2	1

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its March 2009 SBE meeting, the SBE appointed 19 new members to the COP. The terms of these members expired March 31, 2012.

At its November 2008 meeting, the SBE adopted a revised Governing Policy for the COP. The primary change from the 2004 initial Governing Policy for the COP was the reduction of the membership from 30 to 19 members to respond to the increased fiscal costs of convening COP meetings. In 2008, the SBE approved the following positions within each of the required categories:

- Administrators (7 positions)
- Teachers, including vocational educators (4 positions)
- Parents (2 positions)
- Members of local school boards (2 positions)

- Representatives of private school children (2 positions)
- Pupil services personnel (2 positions)

FISCAL ANALYSIS (AS APPROPRIATE)

The Title I COP is federally funded. Committee members do not receive compensation, but are reimbursed for travel related expenses to attend meetings.

ATTACHMENT(S)

Attachment 1: Proposed Title I Committee of Practitioners Governing Policy (2 Pages)

Attachment 2: The Recommended Appointment of Members to the Title I Committee of Practitioners will be provided in an Item Addendum.

Proposed Title I Committee of Practitioners Governing Policy

Background

Title I of the Elementary and Secondary Education Act (Public Law 107–110, 20 *United States Code* 6573, Section 1903) requires each State educational agency that receives Title I funds to create a State committee of practitioners (COP) to advise the State in carrying out its responsibilities under Title I.

Composition

Members are appointed by the State Board of Education (SBE). The majority of members shall be representatives from local educational agencies. The COP shall have a total membership of 13 positions representing the following categories:

- Administrators (4 positions)
- Teachers, including vocational educators (3 positions)
- Parents (2 positions)
- Members of local school boards (1 position)
- Representatives of private school children (2 positions)
- Pupil services personnel (1 position)

Representatives will be appointed to ensure appropriate representation among the six membership categories.

Purpose

The purpose of the COP shall be to review any State rules and regulations relating to Title I of the Elementary and Secondary Education Act in order to advise the state in carrying out its Title I responsibilities.

Term of Office

Members will serve a maximum term of three years. Terms of office will be staggered to avoid the need to replace the majority of members at the same time. Members are expected to attend all meetings.

Frequency of Meetings

Regular meetings of the COP will be conducted annually or as needed.

Rules of Governance

The SBE President will select the chair and vice-chair from the members. The chair shall preside at all meetings of the COP; prepare the agenda for each meeting in consultation with California Department of Education (CDE) and SBE staff; and perform other necessary activities to assist the COP. The vice-chair shall conduct meetings in the absence of the chair.

Each member of the COP shall have one vote. Actions by the COP shall be taken by a majority of COP membership present during a scheduled meeting.

Unless otherwise specified, *Robert's Rules of Order, Revised* shall govern the procedures of COP meetings.

Applicability of *Bagley-Keene Open Meeting Act*

In accordance with law, meetings of the Title I COP are subject to the requirements of the *Bagley-Keene Open Meeting Act*.

Travel, Lodging, and Other Expenses

COP members shall be reimbursed for travel and per diem expenses related to COP meetings only, at the same rate applicable for CDE staff. No reimbursement will be made for other activities.

Staff to the Committee of Practitioners

The CDE Title I staff will summarize comments and/or recommendations of the COP from the COP meetings to present to the SBE.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Administration of Epilepsy Medication—Approve Commencement of a 15-Day Public Comment Period for Proposed Amendments to the *California Code of Regulations*, Title 5, Sections 620–627.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Senate Bill 161 was signed by the Governor on October 7, 2011. California *Education Code* (*EC*) Section 49414.7, implementing SB 161, went into effect on January 1, 2012. The SB 161 authorizes a school district, county office of education, or charter school to participate in a program to provide nonmedical school employees with voluntary emergency medical training to provide, in the absence of a credentialed school nurse or other licensed nurse on-site at the school or charter school—and with a parent's written authorization—emergency medical assistance to pupils with epilepsy suffering from seizures, in accordance with guidelines to be developed by the California Department of Education (CDE) in consultation with the State Department of Public Health. The CDE is required to post these guidelines on its Web site by July 1, 2012.

Because SB 161 states that the training must be "consistent" with the guidelines and that a nonmedical school employee who has completed the voluntary training and provides assistance "shall" provide assistance "using the guidelines," the guidelines are to be rules of general application and it is necessary to adopt them as regulations. Emergency regulations containing the guidelines became effective March 26, 2012.

RECOMMENDATION

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

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed

adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;

- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's September 2012 agenda for action; and

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

BRIEF HISTORY OF KEY ISSUES

SB 161 went into effect on January 1, 2012. Volunteer nonmedical school employees must be trained in order to provide the emergency medical assistance described in this program. The training must be consistent with the guidelines to be posted by July 1, 2012. Any emergency medical assistance provided by trained volunteer nonmedical employees must be provided using the guidelines to be posted by July 1, 2012. Because the guidelines are to be rules of general application, it was necessary to adopt them as regulations. The CDE received public comments on the proposed permanent regulations during a 45-day public comment period from March 23, 2012, through May 7, 2012. Emergency regulations became effective on March 26, 2012. They will expire on September 25, 2012. In this agenda item the CDE takes the next step towards the adoption of permanent regulations by proposing that changes to the proposed regulations to be circulated for a 15-day public comment period.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On March 7, 2012, the SBE approved the adoption of emergency regulations which became effective on March 26, 2012.

On March 7, 2012, the SBE approved the commencement of the rulemaking process for permanent regulations since the emergency regulations expire on September 24, 2012. The 45-day public comment period ran from March 23, 2012 to May 7, 2012. A public hearing was held on May 7, 2012, in accordance with the Administrative Procedure Act. Additionally, a stakeholders meeting was held on May 18, 2012. The purpose of this meeting was to provide the Stakeholders and the CDE an opportunity to engage in dialogue regarding the proposed regulations. Such dialogue, although outside the 45-day comment period, aided the CDE in expanding its perspective on the issues, as it moved toward the completion of the regulatory process.

FISCAL ANALYSIS (AS APPROPRIATE)

A Fiscal Impact Statement is provided as an addendum.

ATTACHMENT(S)

Attachment 1: 15-Day Notice of Modifications (3 pages).

Attachment 2: Text of Proposed Regulations (8 Pages).

Attachment 3: Final Statement of Reasons (23 pages).

Attachment 4: 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.

Attachment 5: Legislative Counsel Opinion: Registered Nurses: Training and Supervising School Employee Volunteers to Administer Emergency Antiseizure Medication, May 18, 2012 (8 pages).

CALIFORNIA DEPARTMENT OF EDUCATION
TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION
MICHAEL W. KIRST, President
916-319-0827

1430 N Street Sacramento, CA 95814-5901

July 13, 2012

15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS REGARDING ADMINISTRATION OF EPILEPSY MEDICATION

Pursuant to the requirements of Government Code section 11346.8(c), and California Code of Regulations, title 1, section 44, the State Board of Education (SBE) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on May 7, 2012.

Changes to the text:

After the 45-day comment period, the following changes have been made:

Initial Statement of Reasons has been amended to include the “Effect of agencies” statement on page 4. This was added to comply with Government Code section 1346.6(e).

SECTION 620 is amended to delete the phrase “during the regular school day.” This is necessary to maintain consistency in that Section 621(d), the definition of “regular school day,” is being deleted.

SECTION 621 (d) is deleted in response to a comment that expressed concern that the definition exceeds the scope of the statute. The amendment is necessary to ensure that the regulations are limited to those that are reasonably necessary to implement the statute.

SECTION 623 (f)(10) is added in response to a comment expressing concern that volunteers should know that their participation is truly voluntary. The amendment is necessary for purposes of clarity and to ensure that the volunteer clearly understands his rights.

SECTION 623 (f)(11) is added in response to a comment expressing concern that volunteers should know that their participation is truly voluntary. The amendment is necessary for purposes of clarity and to ensure that the volunteer clearly understands his rights.

SECTION 623(f)(9) is amended to add that "each report shall be documented." This is necessary in order to maintain consistency with section 627(a)(5), which requires that volunteer nonmedical school employees document the administration of emergency anti-seizure medication.

SECTION 624(b) is amended to state "the pupil's health care provider's instructions as specified in section 626(a)(3)." This is necessary to clarify that the instructions being referred to are those specified in detail elsewhere in the regulations.

SECTIONS 625(a)(1-3) are added to clarify the circumstances under which training should take place in the first instance. This is necessary because, presently, the regulations only address the timing of re-training.

SECTIONS 625(b)(1-3) are added to clarify the circumstances under which re-training should occur. This is necessary in order to maintain consistency, given the addition of sections 625(a)(1-3) as to the circumstances under which training should take place in the first instance.

SECTION 626(a)(2) is amended to change the focus from the parent's request for *training* of volunteers, which is one of the predicates to conducting training as discussed in section 625, to the parent's written authorization for the volunteer to actually *administer* the medication, which is one of the predicates to the volunteer administering an emergency anti-seizure medication as discussed in section 626. Thus, we propose amending section 626(a)(2) to state, "The parent or guardian of the pupil with epilepsy has provided written authorization for a volunteer nonmedical school employee to administer an emergency anti-seizure medication."

SECTION 626(a)(5) is amended to state that one of the predicates for administering an emergency anti-seizure medication is not only that the volunteer has completed training but that documentation of completion must be recorded in his or her personnel file. This is necessary to ensure consistency with section 623(f)(3), which states that the volunteer will be informed during training that he must not administer an emergency anti-seizure medication until he has completed the required training and documentation of completion is recorded in his personnel file.

SECTION 627(a)(5) is amended to delete the requirement that the volunteer retain the records. This is necessary to ensure consistency with Education Code section 49414.7(n)(3), which simply states that "a school or charter school" shall retain all records relating to the administration of emergency anti-seizure medication records.

SECTION 627(a)(6) is added to read "[Supervisor shall ensure that] Volunteer nonmedical personnel review any changes in the pupil's health care provider's instructions with the supervising licensed health care professional." This section is added in response to public comment. Existing regulations state that training must be provided in accordance with the pupil's health care provider's instructions, section

624(b) – the contents of which are detailed in section 626(a)(3) – that a volunteer cannot administer an emergency anti-seizure medication until he has completed the training, section 623(f)(2) and (3), and that supervisor must ensure that the volunteer must have access to the pupil's health care provider's written instructions, section 627(a)(3). Accordingly, the expectation is that the volunteer will provide emergency medical assistance in accordance with the pupil's health care provider's instructions. The amendment is necessary to ensure that, if there are changes in the pupil's health care provider's instructions, the volunteer will provide emergency medical assistance in accordance with the revised instructions.

COMMENTS

If you have any comments regarding the proposed changes that are the topic of this 15-Day Notice, the SBE will accept written comments between July 14, 2012, and July 30, 2012, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155; e-mail at regcomments@cde.ca.gov, or mailed and received at the following address by close of business at 5:00 p.m. on July 30, 2012, and addressed to:

Debra Thacker, Regulations Coordinator
Legal, Audits and Compliance Branch
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Suite 5319
Sacramento, CA 95814

All written comments received by 5:00 p.m. on July 30, 2012, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act. Please limit your comments to the 15-day modifications to the text.

- The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined.
- The 15-day text proposed to be added is in "**bold underline**", deleted text is displayed in "~~**bold strikeout**~~".

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 2. Pupils

Subchapter 3. Health and Safety of Pupils

Article 4.5. Administration of Emergency Anti-seizure Medication by Trained Volunteer Nonmedical School Personnel

§ 620. Application.

This Article includes guidelines for training and supervision of volunteer nonmedical employees of those school districts, county offices of education and charter schools that elect to participate in a program of providing, in the absence of a credentialed school nurse or other licensed nurse, emergency medical assistance to pupils with epilepsy suffering from seizures, including administration of emergency antiseizure medication ~~**during the regular school day**~~.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 621. Definitions.

As used in this Article, the following definitions apply:

(a) An "emergency anti-seizure medication" means diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration (FDA), prescribed for patients with epilepsy for the management of seizures by persons without the credentials listed in section 622 below.

(b) "Emergency medical assistance" means the administration of an emergency anti-seizure medication to a pupil suffering from an epileptic seizure.

(c) "Nonmedical school personnel" or "nonmedical school employees" means

employees of a school district, county office of education or charter school who do not possess the licenses listed in section 622 below.

~~(d) "Regular school day" may include not only the time the pupil receives instruction, but also the time during which the pupil otherwise participates in activities under the auspices of the local educational agency, such as field trips, extracurricular and cocurricular activities, before- or after-school programs, and camps or other activities that typically involve at least one overnight stay away from home.~~

(d)~~(e)~~ "Supervision" means review, observation, and/or instruction of a designated nonmedical school employee's performance, but does not necessarily require the immediate presence of the supervisor at all times.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code

§ 622. Individuals Authorized to Train and Supervise Volunteer Nonmedical School Personnel To Administer Emergency Medical Assistance to Pupils With Epilepsy Suffering From Seizures.

One or more of the following licensed health care professionals shall provide the training and supervision:

(a) A physician and surgeon;

(b) A physician assistant;

(c) A credentialed school nurse;

(d) A registered nurse; or

(e) A certificated public health nurse.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 623. Training Content.

The training provided by a licensed health care professional shall include, but not be limited to, all of the following:

(a) Recognition and treatment of different types of seizures;

(b) Administration of an emergency anti-seizure medication;

(c) Basic emergency follow-up procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school administrator or other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room;

(d) Techniques and procedures to ensure pupil privacy;

(e) Record-keeping and record retention, including documenting, for each actual administration of an emergency anti-seizure medication, the pupil's name, the name of the medication administered, the dose given, the date and time of administration, the length of the seizure, and observation and action taken after the seizure;

(f) Informing the volunteer that:

(1) his or her agreement to administer an emergency anti-seizure medication is voluntary;

(2) he or she must complete the required training;

(3) he or she will not administer an emergency anti-seizure medication until he or she has completed the required training and documentation of completion is recorded in his or her personnel file;

(4) he or she may rescind his or her offer to administer an emergency anti-seizure medication up to three days after completion of the training;

(5) after three days after completion of the training, he or she may rescind his or her offer to administer an emergency anti-seizure medication with a two-week notice, or until a new individual health plan or Section 504 plan has been developed for an affected pupil, whichever is less;

(6) he or she will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance

with, but not limited to, that provided in Division 3.6 (commencing with section 810) of Title 1 of the Government Code;

(7) he or she will be compensated in accordance with his or her pay scale pursuant to Education Code section 45128, when the administration of an emergency anti-seizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours;

(8) if he or she has not administered an emergency anti-seizure medication within the past two years and if there is a pupil enrolled in the school who may need the administration of an emergency anti-seizure medication, the volunteer must be re-trained in order to retain the ability to administer an emergency anti-seizure medication; and

(9) he or she must report every administration of anti-seizure medication to the school or charter school administrator **and each report shall be documented**.

(10) any agreement by an employee to administer an emergency antiseizure medication is voluntary, and an employee of the school or charter school or an employee of the school district or county office of education, or the charter school administrator, shall not directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce any staff member who does not choose to volunteer, including, but not limited to, direct contact with the employee.

(11) the electronic notice described in Education Code section 49414.7(g)(4) shall be the only means by which a school or charter school solicits volunteers.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 624. Training Requirements.

The training by a licensed health care professional must be provided in accordance with:

(a) The emergency anti-seizure medication manufacturer's instructions,

(b) The pupil's health care provider's instructions **as specified in section 626(a)(3)**; and

(c) Guidelines established within this Article.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 625. Training Timing.

~~**Volunteer nonmedical school personnel who have not administered an emergency anti-seizure medication within the past two years shall be re-trained if there is a pupil enrolled in the school who may need the administration of an emergency anti-seizure medication.**~~

(a) if a school district, county office of education, or charter school elects to participate in a program described in this Article, training of a volunteer nonmedical school employee shall occur when:

(1) a pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider, and

(2) the parent or guardian of the pupil with epilepsy has requested that one or more volunteer nonmedical school employees be trained in the administration of an emergency anti-seizure medication in the event that the pupil suffers a seizure when the nurse is not available, and

(3) a volunteer nonmedical school employee has volunteered to be trained.

(b) A volunteer nonmedical school employee who has previously completed training shall attend a re-training program if:

(1) he or she has not administered an emergency anti-seizure medication within the prior two years;

(2) a pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider; and

(3) the parent or guardian of the pupil with epilepsy has requested that one or more volunteer nonmedical school employees be trained in the administration of

an emergency anti-seizure medication in the event that the pupil suffers a seizure when the nurse is not available.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 626. When Emergency Medical Assistance By Trained Volunteer Nonmedical School Personnel Should Be Provided.

(a) If a school district, county office of education, or charter school elects to participate in the program described in this Article, emergency medical assistance shall be provided by a volunteer nonmedical school employee when:

(1) A pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider;

(2) The parent or guardian of the pupil with epilepsy has ~~**requested**~~ **provided written authorization for a** ~~**that one or more**~~ volunteer nonmedical school employee~~**s**~~ **to administer an emergency anti-seizure medication** ~~**be trained in the event a nurse is not available**~~; and

(3) The school has on file a written statement from the pupil's authorized health care provider, provided by the parent, that shall include, but not be limited to, all of the following:

(A) The pupil's name;

(B) The name and purpose of the prescribed emergency anti-seizure medication approved by the federal Food and Drug Administration (FDA) for administration by non-licensed personnel;

(C) The prescribed dosage;

(D) Detailed seizure symptoms, including frequency, type, or length of seizures that identify when the administration of an emergency anti-seizure medication becomes necessary;

(E) The method of administration;

(F) The frequency with which the medication may be administered;

(G) The circumstances under which the medication may be administered;

(H) Any potential adverse responses by the pupil and recommended mitigation actions, including when to call emergency services;

(I) A protocol for observing the pupil after a seizure, including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation; and

(J) A statement that following a seizure, the pupil's parent/guardian and the school nurse, if a credentialed nurse is assigned to the school district, county office of education, or charter school, shall be contacted by the school or charter school administrator or, if the administrator is not available, by another school staff member to continue the observation plan as established in section 626(a)(3)(I).

(4) The parent has provided all materials necessary to administer an emergency anti-seizure medication;

(5) The volunteer nonmedical school employee has completed training in the administration of an emergency anti-seizure medication approved by the FDA for administration by non-licensed personnel **and documentation of completion has been recorded in his or her personnel file**;

(6) The pupil is suffering from an epileptic seizure; and

(7) A credentialed school nurse or licensed vocational nurse is not available.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

§ 627. Supervision of Trained Volunteer Nonmedical School Personnel in Administration of Emergency Medical Assistance, Including the Administration of Emergency Anti-seizure Medication, to Pupils with Epilepsy Suffering from Seizures.

(a) If a school district, county office of education, or charter school elects to participate in the program described in this Article, the licensed health care professional supervising a volunteer nonmedical school employee shall ensure all of the following:

(1) The volunteer nonmedical school employee has completed the required training;

(2) The volunteer nonmedical school employee does not administer an emergency anti-seizure medication until he or she has completed the required training and documentation of completion is recorded in his or her personnel file;

(3) Volunteer nonmedical school employees have ready access to records including identification of eligible pupils, written authorization from the parent, the pupil's health care provider's written instructions, and parent notification to the school that the pupil has been administered an emergency anti-seizure medication within the past four hours on a regular school day;

(4) Volunteer nonmedical school employees report every administration of emergency anti-seizure medication to the school or charter school administrator; ~~and~~

(5) Volunteer nonmedical school employees document ~~and retain records relating to~~ the actual administration of emergency anti-seizure medication, including the pupil's name, the name of the medication administered, the dose given, the date and time of administration, the length of the seizure, and observation and action taken after the seizure~~.~~**; and**

(6) Volunteer nonmedical school employees review any changes in the pupil's health care provider's instructions with the supervising licensed health care professional.

NOTE: Authority cited: Sections 33031 and 49414.7, Education Code. Reference: Section 49414.7, Education Code.

6-29-12 [California Department of Education]

FINAL STATEMENT OF REASONS
Administration of Epilepsy Medication

UPDATE OF INITIAL STATEMENT OF REASONS

Pursuant to Govt. Code section 11346.3(e)
Effect on agencies: The proposed regulations address a program that is voluntary on the part of educational agencies, and therefore there are no mandated costs for such agencies. Those educational agencies that choose to participate in the program may encounter costs related to training or employee overtime.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MARCH 24, 2012 THROUGH MAY 7, 2012, INCLUSIVE.

The original proposed text was made available for public comment for at least 45 days from March 24, 2012 through May 7, 2012. Letters were received from 156 commenters during the 45-day comment period. A public hearing was held at 1:30 p.m. on May 7, 2012, at the California Department of Education (CDE). Six individuals attended and gave public comment at the public hearing. Pursuant to California Government Code sections 11346.9(a)(3) and (a)(5), the CDE, on behalf of the State Board of Education (SBE), has summarized and responded to the written comments by section as follows:

SECTION 620

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALIFORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD
MARIAN OLIVER, HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
KAREN TEMPLE, ANAHEIM CITY SCHOOL DISTRICT
FRANK RODRIGUEZ, ANAHEIM CITY SCHOOL DISTRICT
LAURA OLIVO, MARIN COUNTY OFFICE OF EDUCATION
LETICIA PLAZA, CLOVIS UNIFIED SCHOOL DISTRICT
MARCI MCLEAN-CRAWFORD, HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
Comment 1: Several commenters express concern that the regulations violate the Nursing Practices Act (NPA), Business and Professions Code sections 2700 et seq. and 2732, in that they authorize voluntary nonmedical school personnel to perform nursing functions, i.e., to assess whether an emergency anti-seizure medication should be administered, administer the medication, and assess a pupil's status post-administration.
Reject: The purpose of these regulations is to implement SB 161, as codified at Education Code section 49414.7, which authorizes volunteer nonmedical school personnel, under specified conditions, to administer emergency anti-seizure medication. Section 49414.7(b) states that it provides that authorization "notwithstanding . . . Section 2732 of the Business and Professions Code."

Bernadette Bettencourt, Stockton USD
Nora Crans, Castro Valley USD
Judy Winter, Glendale USD
Kimiko Collins Curtis, Santa Clara Co. ofc. of Education
Deborah Mutman, Santa Clara Co. ofc. of Education
Amelia Owen-Casillas
Joanne Preston, Junction Elementary School District
Bonnie Magnetti, Rocklin Usd
Nancy Rader, Fullerton school district
Kathy Hundemer, California School Nurses Organization
Diane Durando, Clovis USD
Lois Schultz-Grant
Maggie Ikeda Pendleton, Clovis USD
Jan Wilde, Sulphur Springs School District
Rebecca Libonati, Snowline Joint Union School District
Katy Waugh, Cupertino Unified School District
Leticia Plaza, Clovis Usd

Comment 2: Several commenters expressed concern that the regulations do not sufficiently address situations in which local educational agencies (LEAs) choose not to engage in this program, or situations in which LEAs do choose to engage in the program but no volunteers are available.

Reject: When a parent requests to have volunteer nonmedical school personnel trained to administer an emergency anti-seizure medication in the event a nurse is not available when a pupil has a seizure, the school must notify the parent that the pupil may qualify for services or accommodations under an IEP or 504 plan. (Ed. Code, § 49414.7(d).) *See* also CDE Program Advisory on Medication Administration, at Section XV, relating to medication provided pursuant to an IEP or section 504 plan. If the parent chooses not to pursue an IEP or 504 plan, the school may create an individualized health plan, seizure action plan, or other appropriate health plan designed to acknowledge and prepare for the pupil's health care needs in school. The plan may include the involvement of trained volunteer school employees or a licensed vocational nurse. (Ed. Code, § 49414.7(f).)

It is not necessary to provide more information in these regulations as to what occurs if an LEA chooses not to engage in this program, or if an LEA chooses to engage in the program but no volunteers are available. SB 161 called for the development of guidelines regarding training and supervision of volunteer nonmedical school personnel to administer emergency anti-seizure medication. (Ed. Code, § 49414.7(m)(1).) These regulations provide those guidelines. The program is voluntary on the part of LEAs. Accordingly, the regulations represent guidelines for those LEAs who voluntarily choose to participate in the program. If an LEA elects to participate, but there are no volunteers, the LEA must re-notify the parent of the option to have the pupil assessed for an IEP or a 504 pan. (Ed. Code, § 49414.7(j).)

SECTION 621

Maggie Ikeda Pendleton, Clovis USD
Kathy Hundemer, California School Nurses Organization
Diane Durando, Clovis USD
Laura Olivo, Marin County Office of Education
Frank Rodriguez, Anaheim City School District
Leticia Plaza, Clovis USD
Marci McLean-Crawford, Huntington Beach Union High School District
Comment 3: Section 621(a) - emergency anti-seizure medication: Several commenters express concern that the definition only specifically addresses diazepam, but does not specifically address other emergency anti-seizure medications approved by the FDA.
Reject: Diazepam is the only emergency anti-seizure medication currently approved by the FDA. However, the definition also covers other emergency medications that may be approved by the FDA for this purpose in the future. If other such medications are approved by the FDA, the regulations will apply to them.

Dolores Duran-Flores, California School Employees Association
Comment 4: Section 621(d) - regular school day: The commenter expresses concern that this definition goes beyond the language and intent of the statute. The commenter expresses concern that the definition does not provide sufficient detail as to how the process will work on field trips. The commenter expresses concern that volunteer nonmedical school personnel will be required to work beyond normal school hours, and if so, whether they will be paid for doing so.
Partially Accept: The CDE accepts this comment to the extent it expresses concern that the regulation goes beyond the scope of the statute. Section 621 will be amended to delete the definition of "regular school day" in part (d).

Partially Reject: The statute and regulations state that participation of volunteer nonmedical school personnel is voluntary. (Ed. Code, § 49414.7(b), Section 623 (f)(1).) The statute and regulations also state that volunteers will be paid when administration of medication and subsequent monitoring of the pupil requires the volunteer to work beyond normally scheduled hours. (Ed. Code, § 49414.7(l), Section 623(f)(7).)

Tricia Hunter, American Nurses Association California
Comment 5: The commenter recommends that more guidance and direction be provided as to the administration of emergency medication at different times of the "regular school day." Specifically, the commenter recommends that further detail be provided as to the availability of volunteers, accessibility to medications and medical records, and reporting of emergency medical assistance on field trips and extracurricular activities.
Reject: The CDE believes that the definition is sufficiently clear. The CDE notes that the CDE's Program Advisory on Medication Administration, http://www.cde.ca.gov/ls/he/hn/documents/medadvisory.pdf, at Section IX, provides further guidance on administration of medication on field trips and other school-related activities.

Comment 6: Section 621(e) - Supervision: The commenter recommends cross-referencing section 627, specifying that the supervisor need not be present at the time the emergency anti-seizure medication is administered, and including observation, review of pertinent records and instruction/training when necessary within the definition of supervision.
Reject: The CDE believes that the definition is sufficiently clear and comprehensive. The definition of supervision already makes clear that the supervisor need not necessarily be immediately present at all times, and therefore already makes clear that the supervisor need not necessarily be present at the time the volunteer administers an emergency anti-seizure medication. The CDE believes that so long as the supervisor ensures that the requirements of section 627 are met, the details of supervision may be left to the discretion of an LEA that chooses to participate in this program.

SECTION 622

Sherry Skelly Griffith, Association of California School Administrators
Comment 7: Section 622(a) - physician and surgeon: The commenter recommends that the reference to "a physician and surgeon" be changed to "a physician or surgeon."
Reject: "Physician and surgeon" is used in the statute. (Ed. Code, § 49414.7(m)(5)(A).) The CDE notes that Business and Professions Code sections 2050 and 2051 refer to licensed physicians and surgeons in the conjunctive. The CDE believes the regulation is sufficiently clear.

Bonnie Castillo, California Nurses Association
Cynthia Edmiston, Tracy USD
Michelle Ward, ABC USD
Bonita Mallory, Twin Rivers USD
Laura Olivo, Marin County Office of Education
Frank Rodriguez, Anaheim City School District
Marian Oliver, Huntington Beach Union High School District
Karen Temple, Anaheim City School District
Donna Beckman, San Joaquin County Office of Education
Dolores Sanchez, California Federation of Teachers
Comment 8: Section 622(c) - credentialed school nurse: Several commenters express concern that a credentialed school nurse who trains and/or supervises voluntary nonmedical school personnel violates the NPA, Business and Professions Code sections 2700 et seq. and 2732, and is subject to professional discipline.
Reject: The purpose of the regulations is to implement SB 161, codified by Education Code section 49414.7, which authorizes voluntary nonmedical school personnel, under specified conditions, to administer emergency anti-seizure medication and take certain actions related to that administration. Section 49414.7(b) states that it provides that authorization "notwithstanding . . . Section 2732 of the Business and Professions Code." The statute calls for licensed health care professionals to train and supervise the volunteers. The statute lists credentialed school nurses as being among those licensed health care professionals authorized to train volunteers. (Ed. Code, § 49414.7(m)(5)(C).).

DIANE GOLDMAN, SAN FRANCISCO UNIFIED SCHOOL DISTRICT
CAROL KEMP NEMIRO, HOLLISTER SCHOOL DISTRICT
Comment 8.1: The commenters suggest adding indemnification of licensed health care professionals who train and/or supervise voluntary nonmedical school personnel.
Reject: The regulations state that volunteer nonmedical school personnel will be indemnified. (Section 623(f)(6).) The statute is otherwise silent as to issues of liability and indemnification. It is not necessary or appropriate to address other issues of liability and indemnification in these regulations.

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALIFORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD
Comment 9: Several commenters express concern that the regulation violates Education Code section 49422.
Reject: The purpose of the regulations is to implement SB 161, codified by Education Code section 49414.7, which authorizes voluntary nonmedical school personnel, under specified conditions, to administer emergency anti-seizure medication. The statute calls for licensed health care professionals to train and supervise the volunteers. The statute lists credentialed school nurses as among those licensed health care professionals authorized to train. (Ed. Code, § 49414.7(m)(5)(C).)

SECTION 623

LINDA SHANK, EUREKA USD
LOIS SCHULTZ-GRANT
MICHELLE WARD, ABC USD
DAYLE EDGERTON, ROSEVILLE JOINT UNION HIGH SCHOOL DISTRICT
PATRICIA GOMES, CENTRAL USD
DIANE DURANDO, CLOVIS USD, APRIL 20 AND MAY 7, 2012;
MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALIFORNIA SCHOOL NURSES ORGANIZATION
ROSEMARIE ALPAY, SAN JUAN USD
BERNADETTE BETTENCOURT, STOCKTON USD
NORA CRANS, CASTRO VALLEY USD
JUDY WINTER, GLENDALE USD
KIMIKO COLLINS CURTIS, SANTA CLARA COUNTY OFFICE OF EDUCATION
DEBORAH MUTMAN, SANTA CLARA COUNTY OFFICE OF EDUCATION
AMELIA OWEN-CASILLAS
JOANNE PRESTON, JUNCTION ELEMENTARY SCHOOL DISTRICT
LAURA OLIVO, MARIN COUNTY OFFICE OF EDUCATION
BONNIE MAGNETTI, ROCKLIN USD
FRANK RODRIGUEZ, ANAHEIM CITY SCHOOL DISTRICT
TRICIA HUNTER, AMERICAN NURSES ASSOCIATION CALIFORNIA
MARIAN OLIVER, HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
KAREN TEMPLE, ANAHEIM CITY SCHOOL DISTRICT
JAN WILDE, SULPHUR SPRINGS SCHOOL DISTRICT

REBECCA LIBONATI, SNOWLINE JOINT UNION SCHOOL DISTRICT
KATY WAUGH, CUPERTINO USD
LETICIA PLAZA, CLOVIS USD
JACKIE THOMPSON, VAL VERDE UNIFIED SCHOOL DISTRICT
MARCI MCLEAN-CRAWFORD, HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
Comment 10: Several commenters recommend that a CPR requirement be added. These commenters note that CPR is a requirement for those who administer epinephrine in schools, Education Code section 49414(e)(2)(D), and for those providing specialized physical health care services, such as catheterization, gastric tube feeding, and suctioning, in schools. (Ed. Code, § 49423.5(c).) The commenters state that anti-seizure medications can cause respiratory depression (shallow breathing).
Reject: At the March 7, 2012 SBE hearing on the proposed emergency regulations, Senator Bob Huff, the author of SB 161, stated that CPR was discussed throughout the legislative process and was intentionally rejected. The SBE subsequently rejected the CPR requirement. The CPR requirement was removed from the proposed emergency regulations and the proposed permanent regulations.

While the CDE's Program Advisory on Medication Administration "recommends" that unlicensed personnel administering medication be trained in CPR, *id*. at IV(A)(2) and XII(B)(2), the CDE will not propose a CPR requirement in these regulations.

The CDE notes that nothing in the statute or regulations precludes an LEA that chooses to participate in this program from providing CPR training to volunteers.

DOLORES DURAN-FLORES, CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION
Comment 11: The commenter opposes adding a CPR requirement in the regulations. She states that such a requirement would go beyond the statute.
No response required: See response to Comment 10, above.

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALIFORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD
KAREN TEMPLE, ANAHEIM CITY SCHOOL DISTRICT
MARIAN OLIVER, HUNTINGTON BEACH UNION HIGH SCHOOL DISTRICT
NANCY RADER, FULLERTON SCHOOL DISTRICT
LETICIA PLAZA, CLOVIS USD
Comment 12: Several commenters recommend adopting standardized forms including (1) a contract requiring parents to notify the school if and when an emergency anti-seizure medication is administered at home before school on any given day, (2) a release for exchange of information to allow the school staff to communicate with all stakeholders caring for the student, and (3) an evaluation of competency to assure that the volunteer is competent to administer the medication safely. These commenters also recommend adding a requirement that the training content include administering emergency anti-seizure medications in special situations such as on school buses and for students who have severe behavioral, physical or medical disabilities.

Reject: As for (1), (2) and (3), the CDE believes that it is unnecessary to adopt standardized forms through the regulatory process. The CDE notes that when standardized forms are adopted, any subsequent proposed changes must also go through the regulatory process. The LEAs that choose to participate in the program have discretion to adopt forms that work for them. The statute calls for the CDE to post on its web site a clearinghouse for best practices in training volunteer nonmedical school personnel in emergency administration of anti-seizure medication to pupils with epilepsy suffering from seizures. (Ed. Code, § 49414.7(m)(3).) Sample forms will be included on the clearinghouse.

As for (1), specifically, the CDE notes that the statute requires that the local plan include the requirement that the parent notify the school if the pupil has had an emergency anti-seizure medication administered within the past four hours on a school day. (Ed. Code, § 49414.79k(3).)

As for training regarding specialized situations, the CDE notes that training will necessarily be individualized because it must be in accordance with the pupil's health care practitioner's instructions. (Sections 624(b), 626(a)(3).) Therefore, volunteers will be trained in information specific to the individual pupil involved.

Bernadette Bettencourt, Stockton USD
Nora Crans, Castro Valley USD
Judy Winter, Glendale USD
Kimiko Collins Curtis, Santa Clara County Office of Education
Deborah Mutman, Santa Clara County Office of Education
Amelia Owen-Casillas
Joanne Preston, Junction Elementary School District
Laura Olivo, Marin County Office of Education
Bonnie Magnetti, Rocklin USD
Frank Rodriguez, Anaheim City School District
Jan Wilde, Sulphur Springs School District
Rebecca Libonati, Snowline Joint Union School District
Katy Waugh, Cupertino Unified School District
Marci McLean-Crawford, Huntington Beach Union High School District
Comment 13: Several commenters recommend adding more details regarding training, and specifically (1) adopting a standardized form for communication between the school and the physician, (2) adopting the diastat manufacturer's recommendations as regulations and (3) adding an evaluation of competence as a training requirement.
Reject: As for (1), the CDE believes that it is unnecessary to adopt a standardized form for communication between the school and the physician through the regulatory process. The CDE notes that when standardized forms are adopted, any subsequent proposed changes must also go through the regulatory process. The LEAs can adopt forms that work for them. The statute calls for CDE to post on its web site a clearinghouse for best practices in training volunteer nonmedical school personnel in emergency administration of anti-seizure medication to pupils with epilepsy suffering from seizures. (Ed. Code, § 49414.7(m)(3).) Sample forms will be included on the clearinghouse.

As for (2), the CDE does not believe it is necessary or appropriate to adopt the diastat manufacturer's recommendations as regulations. First, the regulations already require that training be provided in accordance with the particular manufacturer's instructions. (Section 624(a).) Second, diastat is just one emergency anti-seizure medication. The regulations also cover other emergency anti-seizure medications that may be approved by the FDA in the future. Third, if the diastat manufacturer's instructions were to change, it would be necessary to go through the regulatory process to change the regulations.

As for (3), the statute states that a volunteer who has completed the training can administer an emergency anti-seizure medication. Each training will necessarily be individualized in that it must be in accordance not only with the manufacturer's instructions but also the pupil's health care provider's instructions. Therefore, it would be difficult to develop a standard evaluation. In any event, the CDE believes the decision as to whether to include an evaluation in the training, and, if so, the determination of the content of such an evaluation, are best left to the discretion of the individual LEAs who choose to participate in the program. Sample evaluation forms will be included in the clearinghouse.

Christine Herman, Los Angeles County Office of Education
Laura Olivo, Marin County Office of Education
Frank Rodriguez, Anaheim City School District
Marian Oliver, Huntington Beach Union High School District
Karen Temple, Anaheim City School District
Jan Wilde, Sulphur Springs School District
Rebecca Libonati, Snowline Joint Union School District
Katy Waugh, Cupertino Unified School District
Marci McLean-Crawford, Huntington Beach Union High School District
Dolores Sanchez, California Federation of Teachers
Comment 13.1: Several commenters recommend clarifying how volunteer nonmedical school personnel would perform a rectal administration of diazepam in a way that respects the student's privacy.
Reject: The regulations require that the training include techniques and procedures to ensure pupil privacy. 5 CCR section 623(d). Such techniques and procedures will necessarily be individualized in accordance with the physical attributes of the particular setting. The CDE does not believe it is necessary or appropriate to standardize such techniques and procedures in regulations. Rather, these decisions should be left to the discretion of the individual LEAs who choose to participate in the program.

Dolores Duran-Flores, California School Employees Association
Comment 14: The commenter recommends adding two provisions from the statute to the regulations: Education Code section 49414.7(g)(2), prohibiting employees from coercing other employees into volunteering, and Education Code section 49414.7(g)(5) limiting the method and timing of recruitment of volunteers to an electronic notice no more than twice per year to all staff. The commenter asserts that it is necessary to include these provisions in the regulations so that volunteers know their participation is truly voluntary.

Accept: The purpose of the regulations is to provide guidance on training and supervision of volunteers. (Education Code § 49414.7(m)(1), 5 CCR 620.) Section 623(f) includes under training contents, for purposes of clarity, that volunteers be informed of certain rights and responsibilities. These provisions are sufficiently related to those rights and responsibilities to merit inclusion. Section 623(f) will be amended to incorporate the provisions of Education Code section 49414.7(g)(2) and (5).

DOLORES SANCHEZ, CALIFORNIA FEDERATION OF TEACHERS
Comment 14.1: The commenter recommends that the regulations mandate collective bargaining over the conditions for volunteering, in order to prevent coercion. The commenter expresses concern as to whether volunteers will be paid for working extra hours.
Reject: The statute prohibits employees from coercing other employees into volunteering. Education Code section 49414.7(g)(2). The statute does not address collective bargaining. While the CDE recognizes that individual LEAs may engage in bargaining with labor groups relating to the emergency administration of anti-seizure medication, it is not necessary or appropriate to mandate such bargaining in these regulations. The statute and regulations require that volunteers be paid when administration of medication and subsequent monitoring of the pupil requires the volunteer to work beyond normally scheduled hours. (Ed. Code, § 49414.7(l), Section 623(f)(7).)

SHERRY SKELLY GRIFFITH, ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS
Comment 15: (1) The commenter expresses concern about the validity of the requirement in section 623(f)(5) that, after an initial three day period for rescission of the offer to volunteer following training, a trained volunteer must provide a two-week notice that he is rescinding his offer to volunteer. The commenter recommends substituting language simply “encouraging” the trained volunteer to provide the two-week notice.

(2) The commenter recommends adding to section 623(f)(9) requirements that each administration of anti-seizure medication be reported to the administrator that each such report must be documented.
Partially accept: The CDE accepts the second suggestion because it is consistent with sections 627(a)(4) and 627(a)(5). Section 623(f)(9) will be amended to add “documentation.” It will state that “he or she must report every administration of anti-seizure medication to the school or charter school administrator <u>and each report shall be documented</u>.”

Partially reject: The CDE rejects the first suggestion because the statute requires the two-week notice. (Ed. Code, § 49414.7(g)(3).)

ROBERT E. KLADIFKO, CALIFORNIA STATE UNIVERSITY NORTHRIDGE
Comment 16: The commenter expresses concern as to who is liable if something goes wrong when a volunteer nonmedical school employee administers an emergency anti-seizure medication. The commenter expresses concern as to whether pressure will be put on staff to volunteer.

Reject: The statute and regulations state that volunteer nonmedical school personnel will be indemnified. (Ed. Code, § 49414.7(i), Section 623(f)(6).) The statute does not address other issues of liability or indemnification. Accordingly, the CDE believes it is not necessary or appropriate to address any further issues of liability or indemnification. The statute states that an employee shall not coerce another employee into volunteering. (Ed. Code, § 49414.7(g)(2).) The CDE believes it is not necessary to include that reference, relating to recruitment, in regulations that focus on training and supervision.

DIANE GOLDMAN, SAN FRANCISCO USD
Comment 17: The commenter approves of the requirement in the statute and the regulations to call 911.
No response required. The statute and regulations require that, when a volunteer nonmedical school employee administers an emergency anti-seizure medication, the administrator, or if the administrator is not available another staff member must call 911. (Ed. Code, § 49414.7(m)(3)(c), Section 623(c).)

ROSEMARIE ALPAY, SAN JUAN UNIFIED SCHOOL DISTRICT
Comment 18: The commenter expresses concern that a volunteer who is asked to make a determination as to whether to call 911 is making a nursing judgment.
Reject: The purpose of these regulations is to implement SB 161, as codified at Education Code section 49414.7, which authorizes volunteer nonmedical school personnel, under specified conditions, to administer emergency anti-seizure medication. Section 49414.7(b) states that it provides that authorization "notwithstanding . . . Section 2732 of the Business and Professions Code."

The statute and regulations require that, when a volunteer nonmedical school employee administers an emergency anti-seizure medication, the administrator, or if the administrator is not available another staff member, must call 911. (Ed. Code, § 49414.7(m)(3)(c), Section 623(c).) There is no discretion as to whether to call 911. That is, if there is an administration of an emergency anti-seizure medication, 911 must be called. The volunteer is one potential staff member who could make that call if the administrator is not available.

MAGGIE IKEDA PENDLETON, CLOVIS USD
DIANE DURANDO, CLOVIS USD
Comment 19: Several commenters recommend that in the absence of a school nurse, 911 should be called.
No response required: The statute and the regulations already state that 911 must be called.

TRICIA HUNTER, AMERICAN NURSES ASSOCIATION CALIFORNIA
Comment 20: The commenter expresses concern that the regulations do not contain sufficient detail as to training. The commenter references as examples other guidelines such as CDE's Training Standards for the Administration of Epinephrine Auto-Injectors, the California Department of Public Health's Guidelines for the Management of Asthma in California Schools, CDE's Program Advisory on Medication Administration, and

Tennessee's Guidelines for the Emergency Use of Anti-Seizure Medication in Schools, as well as statutes and regulations on health care professionals training and supervising.
Reject: The regulations require that training be in accordance with the particular manufacturer's instructions and the pupil's health care practitioner's instructions, and that it cover the recognition and treatment of different types of seizures, administration of the medication, basic emergency follow-up procedures, techniques and procedures to ensure pupil privacy, and record-keeping and record retention. (Sections 623(a) through (e) and Sections 624(a) and (b).) The manufacturer's instructions and the health care practitioner's instructions will provide a certain level of individualized detail in each training. An LEA that chooses to participate in the program has discretion as to the details of the training on the other required topics. The CDE will post samples of best practices on these other topics in the clearinghouse. The CDE believes it is not necessary or appropriate to mandate any further specific training details by way of regulation.

Comment 21: The commenter recommends that the rights of the volunteer be separated out into a different section from the content of the training.
Reject: The CDE believes the formatting change is not necessary.

Laura Olivo, Marin County Office Of Education
Frank Rodriguez, Anaheim City School District
Marian Oliver, Huntington Beach Union High School District
Karen Temple, Anaheim City School District
Marci McLean-Crawford, Huntington Beach Union High School District
Comment 21.1: The commenters recommend more detailed training requirements relating to the recognition of seizures.
Reject: The state and regulations require that the training cover the recognition and treatment of different types of seizures. (Ed. Code, § 49414.7(m)(3)(A); Section 623(a).) An LEA that chooses to participate in the program has discretion as to the details of the training. The CDE will post samples of best practices in the clearinghouse. The CDE believes it is not necessary to mandate any further details regarding training in recognition of seizures.

Kimiko Collins Curtis, Santa Clara County Office of Education
Deborah Mutman, Santa Clara County Office of Education
Carol Kemp Nemiro, Hollister School District
Comment 22: These commenters express concern that the requirement to observe the student after the administration of an anti-seizure medication violates Education Code section 49423.5(D) because it involves a nursing assessment.
Reject: As stated above, the purpose of these regulations is to implement SB 161, as codified at Education Code section 49414.7, which authorizes volunteer nonmedical school personnel, under specified conditions, to administer emergency anti-seizure medication. Section 49414.7(b) states that it provides that authorization "notwithstanding . . . Section 2732 of the Business and Professions Code."

The statute requires that the local plan include the pupil's health care practitioner's instructions which must include a protocol for observing the student after the seizure. (Ed.

Code, § 49414.7(k)(6)(I); Section 626(a)(3)(I).) The protocol includes whether the pupil should rest in the office, whether the pupil may return to class, and the length of time the pupil should be under direct observation. *Id*. The statute does not delineate who is to perform the observation. It does state that the parent and school nurse are to be contacted to "continue the observation plan" contained in the aforementioned protocol. (Ed. Code, § 49414.7(k)(6)(J); Section 626(a)(3)(J).) The statute appears to contemplate that persons who could be involved in observation could include a volunteer nonmedical school employee. For example, Section 623(f)(7) notes that a volunteer nonmedical school employee who monitors a pupil after administration of an emergency anti-seizure medication is entitled to compensation if the monitoring requires him or her to work beyond his or her normal hours.

A separate Education Code section, Education Code section 49423.5, addresses the performance of specialized health care services such as catheterization, gastric tube feeding and suctioning by unlicensed, trained school personnel. Education Code section 49423.5(D) states that the definition of specialized health care services does not include services that involve a nursing assessment, interpretation or decision making. It is not necessary to address in these regulations whether or not the administration of an emergency anti-seizure medication constitutes a specialized physical health care service.

ROSEMARIE ALPAY, SAN JUAN USD
Comment 23: The commenter recommends that a child stay home from school for one day after receiving diastat at home.
Reject: The statute provides that the local plan shall include the requirement that the parent notify the school if the pupil has had an emergency anti-seizure medication administered within the past four hours on a school day. (Ed. Code, § 49414.7(k)(4).) The statute does not require that the student stay home in such a situation, and in any event the CDE is not aware of any legal authority that would permit such a requirement.
SECTION 624

PAMELA KAHN, ORANGE COUNTY DEPARTMENT OF EDUCATION
Comment 24: The commenter expresses concern that the training must be in accordance with the medication manufacturer's instructions, that the manufacturer's instructions for Diazepam at http://www.diastat.com state that the prescribing physician should validate that a caregiver is competent to administer the medication, and yet the regulations do not require such physician's validation in order for a trained volunteer to administer the medication. Thus, the commenters see an inconsistency.
Reject: There is no requirement in the statute that the pupil's physician validate a volunteer's competence to administer an emergency anti-seizure medication.

The regulations require training in administration of an emergency anti-seizure medication, section 623(b), that must be in accordance with the manufacturer's instructions. (Section 624(a).) First, while diazepam is currently the only emergency anti-seizure medication approved by the FDA, the statute contemplates that other such medications may be approved in the future. Second, the statute provides that the physician is just one of five categories of licensed health care professionals authorized to do training. (Ed. Code, §

49414.7(m)(5); Sections 622 (a) through (e).) Third, the legislation does not prescribe a particular validation of volunteer competency, but rather indicates that a person who completes the training is qualified to administer an emergency anti-seizure medication.

The regulations must implement the legislative intent of the statute. Adding a regulation requiring that volunteer nonmedical school personnel be validated by the physician would be inconsistent with the intent of the statute.

It is not necessary or appropriate in these regulations to further address any perceived inconsistency.

SECTION 625

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER; CALIFORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD, APRIL 20 AND MAY 7, 2012.
LETICIA PLAZA, CLOVIS USD
Comment 25: Several commenters recommend that training be done each time a student who may need administration of an emergency anti-seizure medication enrolls in a school district, and at least annually for students who are already enrolled.
Partially accept: The CDE notes that, presently, the regulation only addresses re-training. The CDE finds it is necessary to amend the regulation to add the circumstances under which training should take place in the first instance, and to amend the regulation on re-training accordingly.

The CDE believes the regulations, as amended, are sufficiently clear that training must occur when a new student enrolls and other circumstances apply, because training must be in accord with the pupil's physician's health care instructions. In other words, the training must relate to an individual pupil.

Partially reject: The CDE does not believe it is necessary to or appropriate to require annual training. The statute contemplates re-training every two years if there has not been an administration of anti-seizure medication within that time period. Thus it is presumed that a volunteer who has administered the medication within the past two years has had recent enough practical experience such that re-training is not mandated. It should be noted that nothing in the statute or the regulations precludes an LEA that chooses to participate in the program from providing more frequent training than is mandated if it so chooses.

TRICIA HUNTER, AMERICAN NURSES ASSOCIATION CALIFORNIA
Comment 26: The commenter recommends that the regulation be amended to indicate that training, or re-training, is required when (1) a new pupil enrolls who may require an emergency anti-seizure medication, (2) there is a change in the health care provider's instructions, or (3) the supervisor determines that the volunteer needs additional training.
Partially accept and reject: The CDE notes that, presently, the regulation only addresses re-training. The CDE finds it is necessary to amend the regulation to add the

circumstances under which training should take place in the first instance, and to amend the regulation on re-training accordingly.

As for (1), the CDE does not believe it is necessary to amend the regulation to indicate that training is required whenever a new pupil enrolls who may require an emergency anti-seizure medication. That is sufficiently covered in proposed (a) below. That is, the CDE believes the amended regulations, noted above, are sufficiently clear that training must occur when a new student enrolls and other circumstances apply, because training must be in accord with the pupil's physician's health care instructions. In other words, the training must relate to an individual pupil.

As for (2), the CDE does not believe it is necessary to amend the regulations to require a full re-training when there is a change in the health care provider's instructions. However, the CDE does agree that the supervisor must review any change in the health care practitioner's instructions with the volunteer. This will be covered by an amendment to section 627 on supervision.

As for (3), the CDE does not believe it is necessary to amend the regulations to require re-training when the supervisor determines that the volunteer needs additional training. A supervisor has discretion to make determinations about the need for additional training, but additional training needn't be made mandatory. Nothing in the statute or regulations precludes an LEA that chooses to participate in the program from providing more training than is mandated.

Carol Kemp Nemiro, Hollister School District
Comment 26.1: The commenter expresses concern that training should be more frequent.
Reject: For reasons stated above, see response to comment 26, the CDE rejects this comment.

SECTION 626

Bonnie Castillo, California Nurses Association
Comment 27: The commenter recommends that section 626(a)(3)(J) be amended to require that once the parent has been notified that her child has been administered an emergency anti-seizure medication, the parent must come to school to continue the observation plan if a school nurse is not available.
Reject: Section 626(a)(3)(I) requires a protocol for observing the pupil after a seizure. Subdivision (a)(3)(I) does not delineate who will perform the observation. Subdivision (a)(3)(J) requires that following a seizure, the pupil's parent/guardian and the school nurse, if a credentialed nurse is assigned to the school district, county office of education, or charter school, shall be contacted to continue the observation plan described in subdivision (a)(3)(I). Subdivision (a)(3)(J), likewise, does not delineate who will perform the observation. Presumably, that would be addressed in the protocol for observing the pupil after a seizure pursuant to subdivision (a)(3)(I). It would appear that persons who could be involved in observation could include a volunteer nonmedical school employee. For example, section 623(f)(7) notes that a volunteer nonmedical school employee who

monitors a pupil after administration of an emergency anti-seizure medication is entitled to compensation if the monitoring requires him or her to work beyond his or her normal hours. Others who could be involved in observation would be a school nurse if assigned and available, and a parent. However, it does not appear that the intent of the statute is to require the parent to come to school to observe the student, and in any event the CDE is not aware of any legal authority that would require a parent to do so.

TRICIA HUNTER, AMERICAN NURSES ASSOCIATION CALIFORNIA

Comment 28: The commenter expresses concern that the regulations do not incorporate certain required elements of the local plan per the statute, including (1) the requirement to identify existing licensed staff who could be trained (Ed. Code, § 49414(k)(1)), (2) the requirement to have on file written authorization from the parent or guardian for a volunteer nonmedical school employee to administer an emergency anti-seizure medication (Ed. Code, § 49414.7(k)(3)), and (3) the requirement that the parent or guardian notify the school if the pupil has had an emergency anti-seizure medication administered within the past four hours on a school day. (Ed. Code, § 49414.7(k)(4).) The commenter also recommends adopting a standardized form upon which the pupil's physician can document all of the information required by the statute and regulations, i.e. the information contained in Education Code sections 49414.7(l)(6)(A) through (J) and sections 626(a)(3)(A) through (J).

Partially accept and reject: As for (2), the CDE agrees that it is necessary to amend section 626(a)(2) to change the focus from the parent's request for *training* of volunteers, as discussed in section 625, to the parent's written authorization for the volunteer to actually *administer* the medication, as discussed in section 626. Thus, we propose amending section 626(a)(2) to state, "The parent or guardian of the pupil with epilepsy has provided written authorization for a volunteer nonmedical school employee to administer an emergency anti-seizure medication."

As for (1), the CDE does not believe it is necessary to include the local plan requirement to identify existing licensed staff who could be trained, because the regulation addresses only training and supervision of volunteer nonmedical school employees should be provided. Section 626(a)(7) states that such volunteer assistance should only be provided when a credentialed school nurse or licensed vocational nurse is not available.

As for (3), the CDE does not believe it is necessary to include the local plan requirement that the parent or guardian notify the school if the pupil has had an emergency anti-seizure medication administered within the past four hours on a school day, because these regulations address only the training and supervision of volunteer nonmedical school employees to provide emergency medical assistance.

As for the recommendation for a standardized form for the doctor to fill out the required elements, the CDE believes, as stated in response to earlier comments above, that it is unnecessary to adopt a standardized form for communication between the school and the physician through the regulatory process. The CDE notes that when standardized forms are adopted, any subsequent proposed changes must also go through the regulatory process. The LEAs can adopt forms that work for them. The statute calls for CDE to post

on its web site a clearinghouse for best practices in training volunteer nonmedical school personnel in emergency administration of anti-seizure medication to pupils with epilepsy suffering from seizures. (Ed. Code, § 49414.7(m)(3).) Sample forms will be included in the clearinghouse.

SECTION 627

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALIFORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD, APRIL 20 AND MAY 7, 2012.
LETICIA PLAZA, CLOVIS USD
Comment 29: The commenters recommend (1) that the type and frequency of supervision be specified and (2) that the regulations address school district and personal liability for off-duty volunteer nonmedical school personnel who are also designated friends of the family who volunteer to administer emergency anti-seizure medications when they are not working in their official employment capacity.
Reject: As for (1), the CDE is unsure as to what is meant as to the type and frequency of supervision. As noted in section 621(e), supervision means review, observation, and/or instruction of a designated nonmedical school employee's performance, but does not necessarily require the immediate presence of the supervisor at all times. In section 627, supervisory tasks are delineated: ensuring that volunteers have met the requirements to administer anti-seizure emergency medication, that they have ready access to required information and materials, and that they perform required reporting and documenting functions. The CDE believes that supervision is sufficiently defined, and that it is not necessary to specify the frequency of supervision.

As for (2), the regulations address training and supervision of volunteer nonmedical school employees who provide emergency medical assistance during the regular school day, which, as defined in section 621(d), may include before and after school activities. The regulations state that volunteer nonmedical school employees who administer emergency anti-seizure medication pursuant to this program will be provided indemnification. (Ed. Code, § 49414.7(i) and Section 623(f)(6).) Volunteer nonmedical school employees are to be compensated when administration of an emergency anti-seizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours. (Section 623(f)(7).) The statute does not address situations in which a volunteer nonmedical school employee assists a pupil at a time when the employee is not in an employment capacity. The CDE does not believe it is necessary or appropriate to address such issues in regulations.

TRICIA HUNTER, AMERICAN NURSES ASSOCIATION CALIFORNIA
Comment 30: Ms. Hunter had the following comments:

(1) With respect to section 627(a)(5), the volunteer should not have the responsibility of retaining records relating to the administration of emergency anti-seizure medication;

(2) Recommends that the section be re-organized to distinguish administrative from monitoring and evaluative functions, and that the portion relating to monitoring and evaluative functions reference the definition of supervision in section 621(e) and include a list of monitoring and evaluative activities and a time frame for completing them;

(3) The commenter recommends adding a requirement ensuring that the volunteer report various information (the administration of an emergency anti-seizure medication, medical errors, problems or concerns with the provision of the pupil's health care) to the supervising health care professional as soon as possible;

(4) Recommends adding a requirement that records be maintained safely, confidentially, and in accordance with the Health Information Portability and Accountability Act (HIPAA);

(5) Notes that diazepam is a schedule 4 controlled substance and recommends including information on receipt, storage, disposal, and monitoring of medication for expiration. The commenter recommends referencing the CDE Program Advisory on Medication Administration for this purpose;

(6) Recommends providing more guidance relating to the administration of emergency anti-seizure medication on field trips and extracurricular activities;

(7) The commenter recommends ensuring that the supervising health care professional is notified that a new student who may require emergency medical assistance has enrolled in the school, that there have been changes in the pupil's health care provider's instructions, and whether there have been any concerns relating to the student's care; and

(8) Recommends developing a standardized form for the exchange of information between a school nurse and the pupil's physician.

Partially accept: The CDE's responses are as follows:

(1) The CDE accepts this comment. Education Code section 49414.7(n)(3) simply states <u>the school</u> shall retain all records relating to the administration of emergency anti-seizure medication. Therefore, section 627(a)(5) is amended to delete the requirement that the volunteer retain records.

(7), the CDE agrees that supervision should include reviewing changes in the health care provider's instructions with the volunteer, and proposes adding this as section 627(a)(6). Specifically, that section will now read, "[Supervisor shall ensure that] Volunteer nonmedical personnel review any changes in the pupil's health care provider's instructions with the supervising licensed health care professional."

Partially reject: The CDE's responses are as follows:

(2) The CDE rejects as unnecessary the recommendation to re-organize section 627, and to delineate additional supervisory activities and a time frame for completing them. The CDE believes that the organization of the section is sufficiently clear and that it is not necessary to delineate additional supervisory activities. Rather, decisions as to such activities are matters best left to the discretion of the administrator of the LEA that chooses to participate in the program. Nothing in these regulations precludes an LEA from including supervisory activities that are not mandated in regulations.

(3) Section 627(a)(4) requires that the volunteer nonmedical school employee report every administration of an emergency anti-seizure medication to the school administrator. The CDE believes it is not necessary to delineate additional reporting that the volunteer must make to the supervising health care professional, and believes these are matters best left to the discretion of the administrator. The statute provides that it is the separate responsibility of the administrator (or another designated staff member) to report the administration of an emergency anti-seizure medication to the school nurse. (Ed. Code, § 49414.7(n)(1).)

As for (4), existing law addresses general requirements on maintenance of confidential student records, and it need not be repeated in these regulations. The clearinghouse will include guidance on HIPPA.

As for (5), existing law addresses general requirements on delivery, storage and disposal of medication at school, and it need not be repeated in these regulations. The clearinghouse will include the CDE's Program Advisory on Medication Administration which addresses these issues in Sections V and VIII.

As for (6), the regulations apply to administration of emergency anti-seizure medication during the regular school day, which as defined in section 5 CCR 621(d), may include field trips and extracurricular activities. It is not necessary to have separate regulations for such activities. The clearinghouse will include the CDE's Program Advisory on Medication Administration, which addresses medication administration for field trips and school-related activities in Section IX.

As for (7), the CDE rejects as unnecessary a requirement that there be notification that a new pupil who may require administration of an emergency anti-seizure medication has enrolled in the school. As discussed in section 625 above, the CDE believes the proposed amendments to section 625 make it sufficiently clear when training must occur. The CDE rejects as necessary adding a supervision requirement mandating that the supervisor be informed of any concerns that arise regarding a student's care. Such details of supervision are matters best left to the discretion of the LEA that chooses to participate in the program. There is nothing in the statutes or regulations that preclude an LEA that chooses to participate in the program from addressing further details of supervision beyond what is mandated in regulations.

As for (8), the CDE believes that it is unnecessary to adopt standardized forms through the regulatory process. The LEAs have discretion to adopt forms that work for them. The statute calls for the CDE to post on its Web site a clearinghouse for best practices in training volunteer nonmedical school personnel in emergency administration of anti-seizure medication to pupils with epilepsy suffering from seizures. (Ed.n Code, § 49414.7(m)(3).) Sample forms will be included on the clearinghouse.

Comments not related to any particular section of the regulations

Comment 31:

Christi Heck
Steven Baum
Lynn Contino
Joann Sepulveda
Susan Severn
Mr./Mrs. Uini
Ida Foo
Christie Dipley
Laura Printy
Cameo Mead
Erika Boehm
Jaime Polites
Susy Hovland
Patrick Kelley
Abby McDonough
Rebekkah Halliwell
Maher Milly
Melissa Williamson
Stacie Knable-Crook
James Grisolia
Colleen Davis
Mark Wallace
Kara Barton
Ann and Jim Kinkor
Alicia Martinez
Edwin Shen
Calvin Miller
Scott Dainty
Vanessa Cuenca
Sharon Brandes
Sarita Freedman
Andria Cuenca
Soo Ihm
Mark Cervantes
Panchitta Crespo
Mr./Mrs. Gutierrez
Kerry Perryman
Kelly Hoban
Lawrence Raoux
Joshua Hammer
Linda Novack
Mr./Mrs. Sitomer
Sylvia Rodriguez
Mr./Mrs. Stambach
Lorena Ochoa
Joshua Jones
Tasha Sherman
Sam Humphries
Alan Haggard
Debby Higgins
Marilyn Nakamura
Liza Reyes
Philip Soderlind
Kevin Cushing
Laurette Hayden
Arthur Sutorus
Katherine Hayes Rodriguez
Susan Simmons
Martha Stevenson
Ashley Normann
Yvonne Delaney
Aida Garcia
Christine Aleman
Cecilia Navarette
Jennifer Salvino
Steven Kahanic
Jennifer Shillinger
Gloria Rodriguez-Vasquez
E. Struyk
Rhonda Litt
Cari MacLean
Lisa McAfee
Patricia Herrera
Troy Dun
Christine Savella
John Babajian
Monica Robinson
Michele Morris
Mr./Mrs. Hernandez
Sydney Verne
Larry Verne
Barbara Verne
Carole Dias
Barbara Lesley
Cheryl Hein
Dean Sarco
Janna Shadduck-Hernandez
Richard Roy
Lorraine Obeid
Pat Leet
Cindy Finkelstein
Ernesto Maldonado
Lisa Tarlton
Stacey Wilder
Michelle Thames
Mr./Mrs. Wilford
Julianna Kirby
Larry Komar
Anne Wayman
Angela Bousman
Karina Castaneda
Arend White
ShellyWilford
Mr./Mrs. Brizee
Azita Karimkhany Fatheree
Lisa Vorell
B.A. Wilford
Elizabeth Langley
Steve Wilder
State Sen. Bob Huff
Sandra Cuneo
Warren Totten
Jane Totten
Tracy Beach

These commenters urge that the emergency regulations be made permanent.
Partially accept, partially reject: The CDE has amended the regulations according to comments received, as explained in detail herein.

CAROL KEMP NEMIRO, HOLLISTER SCHOOL DISTRICT
Comment 32: These commenters express opposition to the passage of SB 161.
No response required: SB 161 was passed by the legislature, signed into law by the Governor, and codified at Education Code section 49414.7. The purpose of these regulations is to implement the statute by providing guidance on training and supervision of volunteer nonmedical school personnel. (Ed. Code, § 49414.7(m)(2), Section 620.)

BONNIE CASTILLO, CALIFORNIA NURSES ASSOCIATION
Comment 33: The commenter notes procedural and substantive objections to the emergency regulations.
No response required: The emergency regulations were adopted by the Office of Administrative Law.

MAGGIE IKEDA PENDLETON, CLOVIS USD
KATHY HUNDEMER, CALFIORNIA SCHOOL NURSES ORGANIZATION
DIANE DURANDO, CLOVIS USD
LETICIA PLAZA, CLOVIS USD
Comment 34: The commenters object to statements in the regulations package as to the number of children with epilepsy in California and that the SBE had determined there are no mandated costs associated with this voluntary program.
No response required: The purpose of this Final Statement of Reasons (FSR) is to respond to comments received on the substance of the proposed regulations

DOLORES DURAN-FLORES, CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION
Comment 35: The commenter asserts she believes there will be costs associated with the program.
No response required: The purpose of this FSR is to respond to comments received on the substance of the proposed regulations

DOLORES SANCHEZ, CALIFORNIA FEDERATION OF TEACHERS
Comment 36: The commenter expresses concern that the regulations do not address funding for training.
Reject: The statute does not address how LEAs that choose to participate in the program will fund any training costs. It is not necessary or appropriate to address the issue in regulations.

SUMMARY OF STAKEHOLDER MEETING OF MAY 18, 2012

The following people were in attendance on May 18, 2012:

Marc Lerner, Orange County Dept. of Ed;
Caroline Peck, CA Dept of Public Health;
Anita Butler, CA Dept of Public Health;
Dolores Duran-Flores, CA School Employees Association;
Jai Sookprasert, CA School Employees Association;

Jean Roche, CNA (Ca Nurses Association);
Kelly Garman, Office of Senate Republican Leader Bob Huff;
Ryan Cogdill, Office of Senate Republican Leader Bob Huff;
Katy Waugh, California School Nurses Organization;
Tricia Hunter, American Nurses Association California;
Dolores Sanchez, CFT Legislative Representative;
Anne Kinkor, Epilepsy Foundation;
Christina and Andrew Kurtz, Parents;
Rosemarie Alpay, San Juan USD;
Dolores Sanchez, California Federation of Teachers.

The purpose of this meeting was to provide the Stakeholders and the CDE an opportunity to engage in dialogue regarding the proposed regulations. Such dialogue, although outside the 45 day comment period, aided the CDE in expanding its perspective on the issues, as it moved toward the completion of the regulatory process.

AFTER THE 45-DAY COMMENT PERIOD, THE FOLLOWING CHANGES WERE MADE TO THE PROPOSED TEXT OF THE REGULATIONS AND SENT OUT FOR A 15-DAY COMMENT PERIOD.

SECTION 620 is amended to delete the phrase “during the regular school day.” This is necessary to maintain consistency in that Section 621(d), the definition of “regular school day,” is being deleted.

SECTION 621 (d) is deleted in response to a comment that expressed concern that the definition exceeds the scope of the statute. The amendment is necessary to ensure that the regulations are limited to those that are reasonably necessary to implement the statute.

SECTION 623 (f)(10) is added in response to a comment expressing concern that volunteers should know that their participation is truly voluntary. The amendment is necessary for purposes of clarity and to ensure that the volunteer clearly understands his rights.

SECTION 623 (f)(11) is added in response to a comment expressing concern that volunteers should know that their participation is truly voluntary. The amendment is necessary for purposes of clarity and to ensure that the volunteer clearly understands his rights.

SECTION 623(f)(9) is amended to add that “each report shall be documented.” This is necessary in order to maintain consistency with section 627(a)(5), which requires that volunteer nonmedical school employees document the administration of emergency anti-seizure medication.

SECTION 624(b) is amended to state “the pupil’s health care provider’s instructions <u>as specified in section 626(a)(3).</u>” This is necessary to clarify that the instructions being referred to are those specified in detail elsewhere in the regulations.

SECTIONS 625(a)(1-3) are added to clarify the circumstances under which training should take place in the first instance. This is necessary because, presently, the regulations only address the timing of re-training.

SECTIONS 625(b)(1-3) are added to clarify the circumstances under which re-training should occur. This is necessary in order to maintain consistency, given the addition of sections 625(a)(1-3) as to the circumstances under which training should take place in the first instance.

SECTION 626(a)(2) is amended to change the focus from the parent's request for *training* of volunteers, which is one of the predicates to conducting training as discussed in section 625, to the parent's written authorization for the volunteer to actually *administer* the medication, which is one of the predicates to the volunteer administering an emergency anti-seizure medication as discussed in section 626. Thus, we propose amending section 626(a)(2) to state, "The parent or guardian of the pupil with epilepsy has provided written authorization for a volunteer nonmedical school employee to administer an emergency anti-seizure medication."

SECTION 626(a)(5) is amended to state that one of the predicates for administering an emergency anti-seizure medication is not only that the volunteer has completed training but that documentation of completion must be recorded in his or her personnel file. This is necessary to ensure consistency with section 623(f)(3), which states that the volunteer will be informed during training that he must not administer an emergency anti-seizure medication until he has completed the required training and documentation of completion is recorded in his personnel file.

SECTION 627(a)(5) is amended to delete the requirement that the volunteer retain the records. This is necessary to ensure consistency with Education Code section 49414.7(n)(3), which simply states that "a school or charter school" shall retain all records relating to the administration of emergency anti-seizure medication records.

SECTION 627(a)(6) is added to read "[Supervisor shall ensure that] Volunteer nonmedical personnel review any changes in the pupil's health care provider's instructions with the supervising licensed health care professional." This section is added in response to public comment. Existing regulations state that training must be provided in accordance with the pupil's health care provider's instructions, section 624(b) – the contents of which are detailed in section 626(a)(3) – that a volunteer cannot administer an emergency anti-seizure medication until he has completed the training, section 623(f)(2) and (3), and that supervisor must ensure that the volunteer must have access to the pupil's health care provider's written instructions, section 627(a)(3). Accordingly, the expectation is that the volunteer will provide emergency medical assistance in accordance with the pupil's health care provider's instructions. The amendment is necessary to ensure that, if there are changes in the pupil's health care provider's instructions, the volunteer will provide emergency medical assistance in accordance with the revised instructions.

OTHER REQUIRED SHOWINGS – GOV. CODE SECTION 11346.2(b)(3), (5) and (6)

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

The CDE relied upon the following documents:

- CDE's Program Advisory on the Administration of Medication: http://www.cde.ca.gov/ls/he/hn/documents/medadvisory.pdf

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts because participation in the program is voluntary.

6-29-12 [California Department of Education]

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Linda Lewis	319-0658
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Administration of Epilepsy Medication: Emergency Medical Assistance (version dated 6/14/12)		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance
- ☐ g. Impacts individuals
- ☑ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) The regulations would not impose any additional costs to the private sector.

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

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

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

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

Explain: _____

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

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

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

☐ Yes ☐ No If yes, explain briefly: _____

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

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

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

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

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

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

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

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

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

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

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

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

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

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

Explain: _____

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

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

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

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

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

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

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

Explain: _____

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

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

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

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

   Alternative 1: _____

   Alternative 2: _____

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

Regulation:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 1:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 2:	$ _____	Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

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

   ☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☐ a. implements the Federal mandate contained in _____

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☐ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☑ 6. Other. The program is voluntary and would not result in state mandated costs. Any LEA or charter school that chose to implement the program would incur costs for training, record retention and possible increased costs related to additional liability coverage.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☐ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☑ 4. Other. Minimal costs, associated with the requirements of the statute, will be incurred to maintain a clearinghouse for best practices in training nonmedical personnel in administering emergency anti-seizure medication to pupils.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

FISCAL OFFICER SIGNATURE		DATE June 22, 2012
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE	Jeannie Oropeza	DATE 6/25/12
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

AAV of SBE Item 11 Attachment 4

Accessible Alternative Version (AAV) of Item 11 Attachment 4 from the July 18-19, 2012 State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 11 Attachment 4 from the State Board of Education (SBE) Meeting Agenda, July 18-19, 2012. The scanned Item 11 Attachment 4 (PDF) version is considered to be the official version of the document.

Economic and Fiscal Impact Statement

(REGULATIONS AND ORDERS). *User entries from the STD. 399 (REV. 12/2008) Form.*

Department Name: Education

Contact Person: Linda Lewis

Telephone Number: 916-319-0658

Descriptive Title From Notice Register Or From 400: Administration of Epilepsy Medication: Emergency Medical Assistance (version dated 6/14/12)

Notice File Number: Z

Economic Impact Statement

Section A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

Section A.1. Check the appropriate box(es) below to indicate whether this regulation:

- Selected option is H: None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate)

Fiscal Impact Statement

Section A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 6: Other. The program is voluntary and would not result in state mandated costs. Any LEA or charter school that chose to implement the program would incur costs for training, record retention, and possible increased costs related to additional liability coverage.

Section B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 4: Other. Minimal costs, associated with the requirements of the statute, will be incurred to maintain a clearinghouse for best practices in training nonmedical personnel in administering emergency anti-seizure medication to pupils.

Section C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through

4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 3: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

Fiscal Officer Signature by Linda Lewis dated June 22, 2012

Agency Secretary Approval / Concurrence Signature dated 6/25/12

Department of Finance Approval / Concurrence Signature: No signature.

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

Last Reviewed: Friday, July 06, 2012

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May 18, 2012

Honorable Bob Huff
Room 305, State Capitol

REGISTERED NURSES: TRAINING AND SUPERVISING SCHOOL EMPLOYEE VOLUNTEERS TO ADMINISTER EMERGENCY ANTISEIZURE MEDICATION - #1209012

Dear Senator Huff:

You have asked whether a registered nurse, school nurse, or certificated public health nurse would violate the Nursing Practice Act if he or she trains or supervises a school employee volunteer to administer emergency antiseizure medication pursuant to Section 49414.7 of the Education Code.

The Nursing Practice Act (Ch. 6 (commencing with Sec. 2700), Div. 2, B.& P.C.; hereafter the act) provides for the licensure and regulation of registered nurses by the Board of Registered Nursing within the Department of Consumer Affairs (Secs. 101, 2701, and 2732, B.& P.C.; hereafter the board). Under the act, no person may engage in the practice of nursing without holding a license that is in active status (Sec. 2732, B.& P.C.).

The practice of nursing means, among other things, those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including, among other things, direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment ordered by and within the scope of licensure of, among others, a physician and surgeon (subd. (b), Sec. 2725, B.& P.C.).

A school nurse is a registered nurse licensed by the board who has completed specified additional educational requirements for, and possesses a current credential in, school nursing (Secs. 44877 and 49426, Ed. C.). School nurses strengthen and facilitate the educational process by improving and protecting the health status of children and by identification and assistance in the removal or modification of health-related barriers to learning in individual children (Sec. 49426, Ed. C.). The major focus of school health services is the prevention of illness and disability, and the early detection and correction of health

problems (Ibid.). The school nurse is especially prepared and uniquely qualified in preventive health, health assessment, and referral procedures (Ibid.).

A public health nurse is also a registered nurse who has satisfied specified education and clinical experience requirements and has been issued a certificate by the board to hold himself or herself out as a public health nurse (subd. (c), Sec. 2818, B.& P.C.; 16 Cal. Code Regs. 1490 and 1491). A public health nurse provides services that include, but are not limited to, control and prevention of communicable disease; promotion of maternal, child, and adolescent health; prevention of abuse and neglect of children, elders, and spouses; and outreach screening, case management, resource coordination and assessment, and delivery and evaluation of care for individuals, families, and communities (subd. (a), Sec. 2818, B.& P.C.).

Thus, both school nurses and public health nurses are registered nurses with additional qualifications in order to hold their respective titles and are subject to the act.

With respect to whether a registered nurse, school nurse, or certificated public health nurse would violate the act if he or she trains or supervises a school employee volunteer (hereafter volunteer) to administer emergency antiseizure medication, we turn to Section 49414.7 of the Education Code (hereafter Section 49414.7) and the regulations adopted pursuant to that section.

Section 49414.7 provides, in pertinent part, as follows:

> "49414.7. (a) It is the intent of the Legislature that, whenever possible, an emergency antiseizure medication should be administered by a school nurse or licensed vocational nurse who has been trained in its administration.
>
> "(b) Notwithstanding Sections 2052 and 2732 of the Business and Professions Code, in the absence of a credentialed school nurse or other licensed nurse onsite at the school or charter school, a school district, county office of education, or charter school may elect to participate in a program, pursuant to this section, to allow nonmedical employees to volunteer to provide medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian pursuant to subdivision (c). If the school district, county office of education, or charter school elects to participate in a program pursuant to this section, the school district, county office of education, or charter school <u>shall provide school employees who volunteer pursuant to this section with voluntary emergency medical training, that is consistent with the training guidelines established pursuant to subdivision (m),</u> to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training <u>shall provide this emergency medical assistance using guidelines approved on the department's Internet Web site pursuant to subdivision (m),</u> and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained

pursuant to subdivision (m) shall not be required to provide emergency medical assistance pursuant to this section.

"(c) If a pupil with epilepsy has been prescribed an emergency antiseizure medication by his or her health care provider, the pupil's parent or guardian may request the pupil's school to have one or more of its employees receive training pursuant to this section in the administration of an emergency antiseizure medication in the event that the pupil suffers a seizure when a nurse is not available.

* * *

"(g) In training employees pursuant to this section, the school district, county office of education, or charter school shall ensure the following:

"(1) A volunteer receives training from a licensed health care professional regarding the administration of an emergency antiseizure medication. A staff member who has completed training shall, if he or she has not administered an emergency antiseizure medication within the prior two years and there is a pupil enrolled in the school who may need the administration of an antiseizure medication, attend a new training program to retain the ability to administer an emergency antiseizure medication.

* * *

"(m) (1) The department, in consultation with the State Department of Public Health, shall develop guidelines for the training and supervision of school and charter school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures and shall post this information on the department's Internet Web site by July 1, 2012. The guidelines may be developed in cooperation with interested organizations. Upon development of the guidelines, the department shall approve the guidelines for distribution and shall make those guidelines available upon request.

"(2) The department shall include, on its Internet Web site, a clearinghouse for best practices in training nonmedical personnel to administer an emergency antiseizure medication to pupils.

"(3) Training established pursuant to this subdivision shall include, but not be limited to, all of the following:

"(A) Recognition and treatment of different types of seizures.

"(B) Administration of an emergency antiseizure medication.

"(C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school administrator or

other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.

"(D) Techniques and procedures to ensure pupil privacy.

"(4) Any written materials used in the training shall be retained by the school or charter school.

"(5) Training established pursuant to this subdivision shall be conducted by one or more of the following:

"(A) A physician and surgeon.

"(B) A physician assistant.

"(C) A credentialed school nurse.

"(D) A registered nurse.

"(E) A certificated public health nurse.

"(6) Training provided in accordance with the manufacturer's instructions, the pupil's health care provider's instructions, and guidelines established pursuant to this section shall be deemed adequate training for purposes of this section.

* * *

"(p) For purposes of this section, the following definitions apply:

"(1) An 'emergency antiseizure medication' means diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials listed in paragraph (5) of subdivision (m).

"(2) 'Emergency medical assistance' means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure.

"(q) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date." (Emphasis added.)

Thus, the Legislature, until January 1, 2017, has authorized school districts, county offices of education, and charter schools to participate in a program that authorizes employees to volunteer to provide emergency medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian (subds. (b) and (q), Sec. 49414.7, Ed. C.). The State Department of Education, in consultation with the State Department of Public Health, is required to develop guidelines for the training and supervision of school and charter school employees in providing this emergency medical assistance to pupils by July 1, 2012 (Sec. 89, Ed. C.; subd. (m), Sec. 49414.7, Ed. C.). School districts, county offices of education, or charter schools that participate in the program are required to provide emergency medical training to the school employees who volunteer that is consistent with the training guidelines established by the department (subds. (b) and (m), Sec. 49414.7, Ed. C.). A school employee with voluntary emergency medical training is

required to provide this emergency medical assistance using the guidelines approved by the department (subd. (b), Sec. 49414.7, Ed. C.).

With respect to the training and supervision guidelines, the State Board of Education[1] adopted the guidelines required by Section 49414.7 as emergency regulations pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.) and these emergency regulations were approved by the Office of Administrative Law on March 26, 2012 (see the Notice of Approval of Emergency Regulatory Action, available online at http://www.oal.ca.gov/res/docs/recent_actions_emergencies/2012-0316-03E.pdf (as of April 6, 2012); see also 5 Cal. Code Regs. 620).[2]

Section 49414.7 requires training to be conducted by one or more of the following licensed health care professionals: (1) a physician and surgeon, (2) a physician assistant, (3) a credentialed school nurse, (4) a registered nurse, or (5) a certificated public health nurse (subd. (m), Sec. 49414.7, Ed. C.; see also 5 Cal. Code Regs. 622). The training provided by a licensed health care professional is required to include, among other things, recognition and treatment of different types of seizures, administration of an emergency antiseizure medication, basic emergency followup procedures, techniques and procedures to ensure pupil privacy, and informing the volunteer of certain information (5 Cal. Code Regs. 623).

Unlike the training provisions, Section 49414.7 is ambiguous with regard to specifying who will be responsible for the supervision of school and charter school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures (subd. (m), Sec. 49414.7, Ed. C.). However, courts defer to the agency's interpretation when it fills gaps or resolves ambiguities in the statute the agency administers (*Adams House Health Care v. Bowen* (9th Cir. (Cal.) 1988) 862 F.2d 1371, 1374). Here, the guidelines adopted by the State Board of Education provide that both the training and supervision are required to be conducted by one or more of the following licensed health care professionals: (1) a physician and surgeon, (2) a physician assistant, (3) a credentialed school nurse, (4) a registered nurse, or (5) a certificated public health nurse (5 Cal. Code Regs. 622).

In this context, "supervision" means review, observation, or instruction of a designated school employee's performance, but does not necessarily require the immediate

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[1] The State Board of Education is the policymaking body of the State Department of Education (Sec. 33301, Ed. C.).

[2] Subdivision (e) of Section 11346.1 of the Government Code prohibits a regulation initially adopted as an emergency regulatory action from remaining in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, of the Government Code within a specified period. It appears the State Board of Education commenced efforts to comply with these requirements by issuing a Notice of Proposed Rulemaking and Comment Period on March 23, 2012 (see http://www.cde.ca.gov/re/lr/rr/adminofepilepsymed.asp (as of May 8, 2012)).

presence of the supervisor at all times (5 Cal. Code Regs. 621). If a school district, county office of education, or charter school elects to participate in the program authorizing volunteers to provide emergency medical assistance to pupils with epilepsy suffering from seizures, the licensed health care professional supervising a volunteer is required to ensure that the volunteer has completed the required training, the volunteer does not administer an emergency antiseizure medication until he or she has completed the required training and the completion of such training is documented, the volunteer has access to specified pupil records related to the administration of emergency antiseizure medication, and the volunteer documents and retains records relating to the actual administration of emergency antiseizure medication (5 Cal. Code Regs. 627).

Thus, the question to be addressed is whether a registered nurse, school nurse, or certified public health nurse would violate the act if he or she trains or supervises a volunteer to administer emergency antiseizure medication pursuant to Section 49414.7.

The primary task of statutory construction is to ascertain the intent of the Legislature so as to effectuate the purpose of the law (*Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1226). The guiding star of statutory construction is the intention of the Legislature and the statute is to be read in the light of its historical background and evident objective (*State Compensation Ins. Fund v. Workers' Comp. Appeals Bd.* (1979) 88 Cal.App.3d 43, 52). In determining the legislative intent, the court first examines the words of the statute. If there is no ambiguity in the language of the statute, then the Legislature is presumed to have meant what it said, and the plain meaning of the language governs (*People v. Coronado* (1995) 12 Cal.4th 145, 151).

As an initial matter, a registered nurse, school nurse, or certificated public health nurse who trains or supervises a volunteer to administer emergency antiseizure medication would be acting pursuant to Section 49414.7, not the act. Section 49414.7, and the regulations adopted pursuant to that section, expressly authorize these registered nurses, among other licensed health care professionals, to provide such training and supervision to a volunteer.

As described above, the act provides for the licensure and regulation of registered nurses by the board and describes the practice of nursing. It does not expressly confer authority for a nurse to train or supervise a volunteer to administer emergency antiseizure medication. Nevertheless, we think that Section 49414.7 represents the Legislature's intent to expand the scope of practice of a registered nurse, which already includes the administration of medicine (subd. (b), Sec. 2725, B.& P.C.), to also include the training and supervision of a volunteer to administer emergency antiseizure medication.

Furthermore, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject (*Isobe v. Unemployment Ins. Appeals Bd.* (1974) 12 Cal.3d 584, 590-591). When two statutes touch upon a common subject, they are to be construed in reference to each other, so as to "harmonize the two in such a way that no part of either becomes surplusage" (*Ross v. California Coastal Com.* (2011) 199 Cal.App.4th 900, 928). To the extent a specific statute is inconsistent with a general statute potentially covering the same subject matter, the specific statute must be read as an exception to the more general statute

(*Salazar v. Eastin* (1995) 9 Cal.4th 836, 857). A specific provision relating to a particular subject will govern a general provision even though the general provision standing alone would be broad enough to include the subject to which the specific provision relates (*Carlton Santee Corp. v. Padre Dam Mun. Water Dist.* (1981) 120 Cal.App.3d 14, 29).

Applying these rules of statutory construction, we think the provisions of Section 49414.7 may be harmonized with the act and that the specific training and supervision requirements of the section, discussed above, represent an exception to the act.

In addition, the act provides that no state agency other than the board may define or interpret the practice of nursing for those licensed pursuant to the act, or develop standardized procedures or protocols pursuant to the act, "unless so authorized by [the act], <u>or specifically required under state or federal statute</u>" (subd. (e), Sec. 2725, B.& P.C.; emphasis added). Therefore, the act itself contemplates a statute beyond the ambit of the act and the board's jurisdiction to define the practice of nursing, such as in the case of Section 49414.7 which establishes an exception to the act to authorize the training and supervision of a volunteer to administer emergency antiseizure medication.

Examples of other similar exceptions to the act are Sections 49414 and 49414.5 of the Education Code. Section 49414 of the Education Code authorizes a school district or county office of education to provide emergency epinephrine autoinjectors to trained personnel, and trained personnel may utilize those epinephrine autoinjectors to provide emergency medical aid to persons suffering from an anaphylactic reaction (subd. (a), Sec. 49414, Ed. C.). Section 49414.5 of the Education Code provides that, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, each school district is authorized to provide school personnel with voluntary emergency medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia subject to specified standards (subd. (a), Sec. 49414.5, Ed. C.). Training by a physician and surgeon, <u>credentialed school nurse, registered nurse, or certificated public health nurse</u> according to specified standards is deemed adequate training for purposes of Section 49414.5 of the Education Code (subd. (b), Sec. 49414.5, Ed. C.).

Finally, even though we think that Section 49414.7 represents an exception to the act, one might argue that a registered nurse, school nurse, or certificated public health nurse, by providing training and supervision to a volunteer to administer emergency antiseizure medication, may be subject to disciplinary action by the board if he or she assists or abets a volunteer in the practice of nursing without a license as required by Section 2732 of the Business and Professions Code (subd. (d), Sec. 2761, B.& P.C.). However, we do not think this argument would be valid because Section 49414.7 expressly excepts such volunteers from

the licensure requirements in Section 2732 of the Business and Professions Code (subd. (b), Sec. 49414.7, Ed. C.).

Therefore, it is our opinion that a registered nurse, school nurse, or certificated public health nurse would not violate the Nursing Practice Act if he or she trains or supervises a school employee volunteer to administer emergency antiseizure medication pursuant to Section 49414.7 of the Education Code.

Very truly yours,

Diane F. Boyer-Vine
Legislative Counsel

Michelle L. Samore

By
Michelle L. Samore
Deputy Legislative Counsel

MLS: jrp

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 12

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Doris Topsy-Elvord Academy: Consider Issuing a Notice of Intent to Revoke Pursuant to California *Education Code* Section 47607(e).	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUES

On May 22, 2012, the State Board of Education (SBE) issued a Notice of Violation to Doris Topsy-Elvord Academy (DTEA) and allowed DTEA an opportunity to provide documentation or evidence to refute or remedy the Notice of Violation, primarily the ongoing negative balance in the charter school's budget. As specified in the Notice of Violation, DTEA's deadline to provide the documentation to the SBE was June 29, 2012. DTEA provided written summary of donations received, financial commitments and reductions to their expenses. DTEA provided a 2012–13 budget as confirming evidence for increased revenue and reduced expenses. DTEA also provided a new Fundraising Action Plan, a Student Recruitment Plan and several letters of support from the local community. The California Department of Education (CDE) continues to work with the school to address these issues.

RECOMMENDATION

California Department of Education Recommendation

After review and analysis of the evidence submitted presented by DTEA, CDE staff concludes that DTEA has made progress towards addressing concerns identified in the Notice of Violation. Thus, CDE recommends that the SBE not pursue the Notice of Intent to Revoke at this time. The CDE recommends that the SBE direct DTEA to work with CDE staff to develop a Corrective Action Plan to fully resolve the remaining fiscal issues identified in the Notice of Violation.

BRIEF HISTORY OF KEY ISSUES

On May 22, 2012, the SBE issued a Notice of Violation to DTEA requiring documentation or evidence to refute, remedy or propose to remedy the violations described in the Notice of Violation. On June 29, 2012, DTEA provided the SBE written evidence to address the Notice of Violation. DTEA submitted two additional documents on July 5, 2012. A summary of CDE's review and analysis is provided as Attachment 3.

CDE's analysis of the documents provided by DTEA (Attachments 2, 7 and 8), which includes the following documents, and other fiscal documents available at the CDE.

- DTEA's response to the Notice of Violation
- DTEA's fundraising efforts chart
- DTEA's renewed fundraising plan
- Eight letters of support
- Recruitment plan

CDE staff reviewed the evidence provided by DTEA and finds DTEA has made progress in addressing concerns in the following areas:

- DTEA Board of Directors appear to be more actively involved with the organization and several board members have made personal financial contributions.

- DTEA has successfully recruited community partners who are committed to the school, as evidenced by eight letters of support from community and business organizations.

- DTEA has improved the school's financial stability. DTEA has received additional funds, reduced its negative balance by 7.7 percent, and reduced the administrative expenses from 17 percent to 14 percent.

The CDE finds that while DTEA has made progress towards addressing the fiscal issues identified in the Notice of Violation, there are areas of concern. CDE staff will continue to work with DTEA staff to develop a Corrective Action Plan to resolve all remaining fiscal concerns. In addition, DTEA's charter term expires June 30, 2013. During the school's renewal process, a comprehensive review of the school's petition, and operations, including fiscal analysis, will be conducted.

The CDE recommends the SBE direct DTEA to work with CDE in the development of a Corrective Action Plan, so that fiscal concerns are fully resolved. The Corrective Action Plan will include, but not limited to, the following:

- DTEA will provide a clear plan for fiscal recovery by August 31, 2012 that will balance the budget and build a reserve. The plan will include detailed assumptions on revenues and expenditures. Updates will be provided to CDE on a quarterly basis

beginning October 1, 2012, and will include any changes to revenues, expenditures or assumptions that may have an impact on DTEA's ability to implement the plan.

- DTEA will further reduce the administrative leadership costs as necessary to improve the fiscal solvency of the school.
- DTEA will provide a detailed plan explaining how the school will meet the fundraising goals established in Appendix A of DTEA's Fundraising Plan.
- DTEA's recruitment plan will include a reasonable enrollment projection followed by measurable outcome of how many students will be recruited and enrolled on a quarterly basis.
- DTEA will provide monthly updates for enrollment.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION ACTION AND DISCUSSION

As a result of the May 9, 2012, SBE meeting, a Notice of Violation was issued by the SBE to DTEA on May 22, 2012.

The SBE authorized DTEA, then known as Micro Enterprise Charter Academy (MECA), on appeal of denial on September 18, 2007. The SBE agenda item and attachments can be found as Item 13 on the SBE September 18–19, 2007, Agenda Web page at http://www.cde.ca.gov/be/ag/ag/yr07/agenda0907.asp. The corresponding minutes for the September 18–19, 2007, SBE meeting can be found on the SBE Minutes Web page at http://www.cde.ca.gov/be/mt/ms/#yr2007.

MECA's petition was denied in June 2005 by the Paramount Unified School District (USD) and in August 2006 by the Los Angeles COE. The ACCS recommended denial of the petition in November 2006 and the petitioners withdrew the petition from the SBE's consideration. A revised charter petition was resubmitted to the Paramount USD and Los Angeles County Office of Education and was denied in February and June 2007 respectfully.

FISCAL ANALYSIS (AS APPROPRIATE)

Operation of DTEA, per se, has essentially no fiscal impact on the state as a whole. If affected students were not being served at DTEA, they would most likely be served at another public school. The CDE receives approximately one percent of DTEA's general purpose and categorical program revenues for CDE's oversight activities.

ATTACHMENTS

Attachment 1: Letter Dated May 22, 2012, to Marvin Smith, Executive Director, DTEA - Notice of Violation Pursuant to California *Education Code* Section 47607(d). (3 Pages)

Attachment 2: Written Evidence Submitted by the Doris Topsy-Elvord Academy. (26 pages)

Attachment 3: California Department of Education Analysis of Evidence Submitted to the State Board of Education by the Doris Topsy-Elvord Academy in Response to a Notice of Violation. (1 Page)

Attachment 4: Doris Topsy-Elvord Academy Academic Achievement and Enrollment Data. (7 Pages)

Attachment 5: Draft Notice of Intent to Revoke and Notice of Facts in Support of Revocation; Notice of Public Hearing to Revoke Pursuant to California *Education Code* Section 47607(e). (3 Pages)

Attachment 6: State Board of Education History Related to Revocation and Relevant Excerpts from Statute. (4 Pages)

Attachment 7: Doris Topsy-Elvord Academy Student Recruitment Plan 2012–13. (3 pages)

Attachment 8: Doris Topsy-Elvord Academy Student Recruitment Strategies. (2 pages)

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
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May 22, 2012

Marvin Smith, Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Richard Rydstom, Esq.
Board Chairman, Doris Topsy-Elvord Academy
4695 MacArthur Court,11th Floor,
Newport Beach, CA 92660

Subject: Notice of Violation Pursuant to California *Education Code* (*EC*) Section 47607(d)

Dear Mr. Smith and Members of the Doris Topsy-Elvord Academy Board of Directors:

The State Board of Education (SBE) is aware of a number of issues indicating that Doris Topsy-Elvord Academy (DTEA) may have committed material violations of the conditions, standards, and procedures set forth in the charter pursuant to *Education Code (EC)* Section 47607(c)(3). Specifically, the items of concern are as follows:

Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement (*EC* Section 47607[c][3]):

- While DTEA has identified plans to eliminate its budget deficit, without supporting documentation that confirms actual grants and donations, the DTEA budget continues to rely on revenues that are not guaranteed. Specifically, the budget includes a total of $50,000 in projected local grant revenue from various sources including Southern California Edison, the NFL Players Association and the Anaheim Angels, and an additional $80,000 in fundraising revenue. The school's cash flow submitted on March 14, 2012, for the second interim reporting period (July 1 through January 31) reflects receipt of approximately $13,000 or 26 percent of local grants and approximately $40,000 or 50 percent of fundraising revenues. The school states that it is currently in the application process for the remaining amounts, however, at this time does not have firm commitments from donors or organizations that may provide local or private grants.

- DTEA has been operating with a negative balance with little empirical evidence of progress towards eliminating the budget deficit. Although the school has submitted details that describe donation and fundraising efforts, without confirmation from donors it is unclear whether the school will have sufficient resources to meet its obligations in the current year and sustain operations in future years.

- Administrative costs appear excessive compared to the number of students served. DTEA employs an executive director and site principal to serve fewer than 100 students. In total, salaries for these two administrative positions represent approximately 17 percent of the school's total budgeted revenues in 2011–12.

- Pursuant to *California Code of Regulations*, Title 5, Section 11968.5.2, DTEA governing board has the right to respond through the following actions:

  (1) Submit to the SBE a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response is due by close of business on June 29, 2012.

  (2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation. DTEA's response should include, at minimum, the following:

    a. Documentation or evidence of commitments associated with the projected grant revenue included in the budget;

    b. Documentation or evidence of commitments associated with the projected fundraising revenue included in the budget;

    c. A detailed plan, based on documented commitments, to eliminate the negative balance in the budget; and

    d. A detailed justification of administrative expenses associated with educational and administrative leadership at DTEA.

Failure to provide substantial evidence that refutes, remedies, or proposes to remedy the alleged violations may provide grounds sufficient to form the basis for an action to revoke the DTEA charter pursuant to *EC* Section 47607(c).

On **July 18, 2012**, the SBE in a public hearing will consider whether there is substantial evidence to refute or remedy each alleged violation, at which time it may issue a Notice of Intent to Revoke, pursuant to *EC* Section 47607(e). If the SBE issues a Notice of Intent to Revoke, the SBE will hold a public hearing on **July 19, 2012**, at which time the SBE will determine whether sufficient evidence exists to revoke DTEA's charter. This letter serves as

a formal Notice of Violation, pursuant to *EC* Section 47607(d) and *California Code of Regulations*, Title 5, Section 11968.5.2, and provides DTEA a reasonable period in which to address these concerns.

A written response and supporting evidence addressing each of the above-outlined issues must be received by Sue Burr, Executive Director, SBE at 1430 N Street, Ste. 5111, Sacramento, CA, 95814 no later than the close of business (5:00 p.m. Pacific Standard Time) **June 29, 2012.**

If you have any questions regarding this subject, please contact Sue Burr, Executive Director, California State Board of Education, by phone at 916-319-0827 or by e-mail at sburr@cde.ca.gov.

Sincerely,

Michael W. Kirst

Dr. Michael Kirst, President
California State Board of Education

MWK/cg

cc: Susan K. Burr, Executive Director, State Board of Education
Deborah Sigman, Deputy Superintendent of Public Instruction,
California Department of Education
Julie Baltazar, Director, Charter Schools Division,
California Department of Education
Judy M. Cias, Chief Counsel, State Board of Education
Joy Rosenquist, Legal counsel, Legal Division, California Department of Education

California Department of Education Analysis of Evidence Submitted to the State Board of Education by the Doris Topsy-Elvord Academy in Response to a Notice of Violation		
SBE required Documentation or Evidence	DTEA Response	CDE's Analysis of DTEA Response
1. Commitments associated with the projected grant revenue and fundraising revenue included in the budget total $50,000 in grants and $80,000 in fundraising revenues.	DTEA provided a chart that lists donations received along with financial commitments and operational reductions through June 2012 which amounts to approximately $118,000 To date, DTEA has raised $52,450 or 68 percent in fundraising revenue. From March to June DTEA has received $23,450 with another $12,500 committed.	According to the donation chart (attachment 7) provided as evidence by DTEA, grants received from 3/23/12 to 6/25/12 total $6,000. According to the donation chart (attachment 7) provided as evidence by DTEA, fundraising amounts received from 3/23/12 to 6/25/12 total $22, 650 with additional financial commitments of $12,500. Conclusion: DTEA made progress towards its fund development goals.
2. A detailed plan to eliminate the negative balance in the budget for the current year and future years	DTEA outlined a plan to eliminate the budget deficit in three steps: • Fundraising action Plan • Major efforts in networking relationships • Adjustments (reductions) that allowed DTEA to finish the school year strong	DTEA began 2011-12 with a negative balance of $167,718. It appears that DTEA ended the 2011-12 fiscal year with a $12,945.76 or 7.7 percent reduction to the negative beginning balance. DTEA's budget plan for the 2012-13 year reflects a $69,493 or 41.4 percent reduction to the negative beginning balance of $154,773. Conclusion: DTEA has made progress in the negative balance in the budget.
3. A detailed justification of administrative expenses associated with educational and administrative leadership	In the written narrative, DTEA detailed adjustments to its staffing and was able to reduce the 17 percent amount for administrative salaries to 14 percent. There was also an additional $40,432 saving in overall staffing adjustment equaling $76,803.	No evidence provided. Conclusion: DTEA provided some justification of its administrative expenses. CDE recommends further reduction in the administrative leadership costs as necessary to improve the fiscal solvency of the school.

DRAFT LETTER - NOTICE OF INTENT TO REVOKE AND NOTICE OF FACTS IN SUPPORT OF REVOCATION; NOTICE OF PUBLIC HEARING TO REVOKE
Pursuant to California *Education Code* Section 47607(e)

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

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DRAFT: July 18, 2012

Marvin Smith, Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Richard Rydstom, Esq.
Board Chairman, Doris Topsy-Elvord Academy
4695 MacArthur Court,11th Floor,
Newport Beach, Ca 92660

Dear Messrs. Smith and Rydstom:

Subject: State Board of Education's Written Notice of Intent to Revoke and Notice of Facts in Support of Revocation; Notice of Public Hearing to Revoke pursuant to California *Education Code* Section 47607(e)

This letter serves as notification that on July 18, 2012, the State Board of Education (SBE) voted to issue a Notice of Intend to Revoke and Notice of Facts in Support of Revocation to the Doris Topsy-Elvord Academy (DTEA) pursuant to California *Education Code (EC)* Section 47607(c). The SBE will hold a public hearing on July 19, 2012, to consider revocation of the DTEA charter pursuant to *EC* Section 47607(e).

EC Section 47607(c) states that a charter may be revoked by the authority that granted the charter "if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(4) Violated any provision of the law.

The SBE issued a Notice of Violation dated May 22, 2012, informing the DTEA that it may have violated *EC* Section 47607(c)(3) and that these violations could be the basis for an action to revoke the DTEA charter. The Notice provided DTEA with an opportunity to submit evidence to the SBE by June 29, 2012, that refuted, remedied, or proposed to remedy the alleged violations.

The Notice provide DTEA with an opportunity to submit evidence to the SBE by June 29, 2012, that refuted, remedied, or proposed to remedy the alleged violations.

Subsequently, DTEA submitted supporting documentation to the SBE. SBE received the (Attachment 2): Written Evidence Submitted by Doris Topsy-Elvord Academy, on June 29, 2012 at 06:43 PM Pacific Standard Time; School Recruitment Plan was submitted on July 5, 2012 at 4:40 PM; and School Budget for 2012-12 on July 6, 2012 which was due on July 1, 2012.

After consideration of the evidence presented by DTEA, the SBE determined that the school has failed to refute, remedy, or propose to remedy the violations included in the Notice of Violation as follows:

Facts relating to EC Section 47605(c)(3) that DTEA has failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement that may hinder its ability to open and operate in the 2012-13 school year:

- DTEA did not provide a clearly delineated plan to reduce or eliminate the negative balance in the budget. Consequently, DTEA appears to have ended the 2011-12 fiscal year with a negative balance of $154,773.

- DTEA presented the school budget for 2012-13 with a negative ending balance of $(85,280), which represents a substantial reduction of its budget deficit. However, DTEA has not provided tangible evidence to support how they will reduce this negative balance. DTEA will be operating with a negative budget balance for its 5th year in 2012-13.

- DTEA failed to provide a detailed justification of administrative expenses associated with educational and administrative leadership at DTEA.

- DTEA failed to meet its goal of grants and fundraising revenues in the 2011-12 fiscal year.

- DTEA's does not include a measurable outcome of student recruitment and enrollment plan.

If you have any questions or need any additional information, please contact Susan Burr, Executive Director, California State Board of Education, by phone at 916-319-0699 or by E-mail at sburr@cde.ca.gov.

Sincerely,

Michael Kirst, President
California State Board of Education

MK:rw

cc: Susan K. Burr, Executive Director, California State Board of Education
Tom Torlakson, State Superintendent of Public Schools
Arturo Delgado, Superintendent, Los Angeles County Office of Education
Judy Cias, Chief Counsel, California State Board of Education
Amy Holloway, General Counsel, California Department of Education
Julie Russell, Director, California Department of Education, Charter Schools Division

State Board of Education History Related to Revocation and Relevant Excerpts from Statute

Since the inception of charter law in California, the State Board of Education (SBE) has acted four times to issue written notices pursuant to *Education Code* (*EC*) Section 47607(d) to charter schools authorized by the SBE.

In two of these cases, the charter schools successfully remedied the violations in the written notices and the SBE subsequently renewed the charters of both schools. Both of these charter schools continue to operate as SBE-authorized charter schools.

In one case, the charter school voluntarily closed prior to the SBE's consideration of evidence that may have remedied the violations.

In one case, the SBE acted to revoke the charter school.

Excerpt from *Education Code* Section 47607: Charter term; renewal; criteria; material revision of charter; revocation

(c) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

> (1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.
>
> (2) Failed to meet or pursue any of the pupil outcomes identified in the charter.
>
> (3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.
>
> (4) Violated any provision of law.

(d) Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to remedy the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

(e) Prior to revoking a charter for failure to remedy a violation pursuant to subdivision (d), and after expiration of the school's reasonable opportunity to remedy without successfully remedying the violation, the chartering authority shall provide a written notice of intent to revoke and notice of facts in support of revocation to the charter school. No later than 30 days after providing the notice of intent to revoke a charter, the chartering authority shall hold a public hearing, in the normal course of business, on the issue of whether evidence exists to revoke the charter. No later than 30 days after the public hearing, the chartering

authority shall issue a final decision to revoke or decline to revoke the charter, unless the chartering authority and the charter school agree to extend the issuance of the decision by an additional 30 days. The chartering authority shall not revoke a charter, unless it makes written factual findings supported by substantial evidence, specific to the charter school, that support its findings.

Excerpts from California Code of Regulations, Title 5

Article 2. General Provisions
Excerpts from Section 11965: Definitions.

For the purposes of Articles 1, 2 and 2.5, the following definitions shall apply:

….

(a)(3) "State chartering authority" is the State Board of Education (SBE) when the SBE has granted a school's charter. The SBE acts as a state chartering authority when it approves the operation of a charter school that has been denied by a local educational agency (LEA) and when it approves the operation of a state charter school pursuant to Education Code section 47605.8.

(b) "Final Decision" means the final written decision of the chartering authority to either revoke or decline to revoke a school's charter.

(c) "Notice of Appeal" means a written document notifying the county board of education or the SBE, as appropriate, that the charter school's governing body as described in the school's charter, or the district chartering authority is appealing the decision to revoke or reverse the revocation of a school's charter.

(d) "Notice of Intent to Revoke" means the written notice of a chartering authority's decision to pursue revocation of a school's charter due to the charter school's failure to remedy one or more violations identified in the Notice(s) of Violation. This notice shall identify all of the following:

(1) All evidence relied upon by the chartering authority in determining that the charter school failed to remedy a violation pursuant to this section;

(2) The date and time at which the chartering authority will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the chartering authority issues this notice.

….

(f) "Notice of Violation" means the written notice of a chartering authority's identification of one or more specific alleged violations by the charter school based on the grounds for

revocation specified in Education Code section 47607(c). This notice shall identify all of the following:

(1) The charter school's alleged specific material violation of a condition, standard, or procedure set out in the school's charter pursuant to Education Code section 47607(c)(1); the specific pupil outcome(s) identified in the school's charter that the charter school allegedly failed to meet or pursue pursuant to Education Code section 47607(c)(2); the charter school's alleged fiscal mismanagement or specific failure to follow generally accepted accounting principles pursuant to Education Code section 47607(c)(3); or the specific provision(s) of law that the charter school allegedly failed to follow pursuant to Education Code section 47607(c)(4), as appropriate.

(2) All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision (f)(1) including the date and duration of the alleged violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued; and

(3) The period of time that the chartering authority has concluded is a reasonable period of time for the charter school to remedy or refute the identified violation(s). In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

(i) "School's charter" is the document approved by the chartering authority, including any material revisions that have been approved by the chartering authority.

Section 11968.5.2: Charter Revocation.
This section sequentially sets forth procedures the chartering authority and the charter school's governing body as described in the school's charter shall complete for the revocation of a school's charter pursuant to Education Code section 47607, except for charter revocation when the violation constitutes a severe and imminent threat to the health or safety of pupils which is subject to section 11968.5.3 rather than this section.

(a) At least 72 hours prior to any board meeting in which a chartering authority will consider issuing a Notice of Violation, the chartering authority shall provide the charter school with notice and all relevant documents related to the proposed action.

(b) The chartering authority shall deliver a Notice of Violation to the charter school's governing body as described in the school's charter.

(c) Upon receipt of a Notice of Violation, the charter school's governing body as described in the school's charter, if it chooses to respond, shall take the following actions:

(1) Submit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.

(2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.

(d) After conclusion of the reasonable opportunity to remedy, the chartering authority shall evaluate the response of the charter school's governing body as described in the school's charter response to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions:

(1) If the chartering authority has substantial evidence that the charter school has failed to refute to the chartering authority's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school's governing body as described in the school's charter; or

(2) Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school's governing body as described in the school's charter.

(e) If the chartering authority does not act, as specified in subdivision (d), within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void.

(f) On the date and time specified in the Notice of Intent to Revoke, the chartering authority shall hold a public hearing concerning revocation. No more than 30 calendar days after the public hearing (or 60 calendar days by written mutual agreement with the charter school) the chartering authority shall issue a Final Decision.

(g) The chartering authority shall provide a copy of the Final Decision to the CDE and its county board of education (unless the county board of education is also the chartering authority), within 10 calendar days of issuing the Final Decision.

(h) If the chartering authority does not act to issue a Final Decision within the timeframe specified in subdivision (f), the revocation process is terminated and the Notice of Intent to Revoke is void.

Doris Topsy-Elvord Academy

a Micro-Enterprise School

Address:
DTEA
5951 Downey Avenue
Long Beach, CA 90805

Phone:
562-630-6096
562-630-6038 fax

www.gomeca.org

June 25, 2012

Michael Kirst, President
Members of the Board
California State Board of Education
1430 N. Street, Suite 5111
Sacramento, CA 95814

RE: Evidence to REMEDY Notice of Violation regarding Doris Topsy-Evlord Academy

Dear President Kirst and Board Members:

This letter is in response to the Notice of Violation pursuant to California Education Code (EC) section 47607(d), issued by the State Board of Education (SBE). As specifically noted, pursuant to California Code of Regulations, Title 5, Section 11968.5.2, Doris Topsy-Elvord Academy (DTEA), governing board has the right to respond through the following actions:

(1) Submit to SBE a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation.

(2) Attach to the written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.

It should be noted, that at the conclusion of the SBE meeting on May 9, 2012, agenda item 9 pertaining to Doris Topsy-Elvord Academy, that the State Board members present were in agreement that to remedy the situation, would be to provide empirical evidence of DTEA's progress forward. As it was brought forth and shared amongst board members, the process for a Notice of Violation pursuant California Education Code (EC) section 47607(d) seemed to be the WRONG process in addressing the matters noted by the California Department of Education staff, and for that matter, made changes to the issuances of this particular Notice of Violation, eliminating going before the ACCS and reporting directly back to the State Board for the July meeting. In consideration, board member Ruckers wanted DTEA to have more time in compiling evidence to remedy the noted concerns, as she was concerned with the process, Notice of Violation used in addressing the issues noted.

It was agree that there were legitimate concerns posed by CDE with regards to DTEA's fiscal situation, and it is a high priority that is being addressing by DTEA's board. To improve the viability of the school, but felt the Notice of Violation was unwarranted, and that there were other means of remedy to address the concerns. At this time, DTEA believes it has accomplished the empirical evidence remedying each alleged violation.

THE COMMUNITY

DTEA is a small urban middle charter school in North Long Beach that serves grades 6-8 and had an enrollment of 105 students for the school year 2011-12. DTEA student population is 78% free & reduced lunch eligible and 76% come from single parent households. DTEA is a valuable asset and a light of hope to the community of North Long Beach. North Long Beach is the poorest section of Long Beach. There is no school in Long Beach that is serving a population of high need middle school students with the kind of innovative approach that DTEA has taken. Claremont Graduate University, Teacher Education Department, has partnered with the DTEA to help ensure the success of the academic programming.

Long Beach is the fifth largest city in California with approximately a half million residents with only two charter schools that are district authorized, and does not serve North Long Beach. North Long Beach is riddled high crime with major social ills, and is among the most challenged communities in Long Beach; the forgotten part of town where fewer resources reach.

RESPONSE TO ALLEGED VIOLATIONS

CDE believes that DTEA has engaged in fiscal mismanagement for the following reasons:

- While DTEA has identified plans to eliminate its budget deficit, without supporting documentation that confirms actual grants and donations, the DTEA budget continues to rely on revenues that are not guaranteed. Specifically, the budget includes a total of $50,000 in projected local grant revenue from various sources including Southern California Edison, the NFL Players Association and the Anaheim Angels, and an additional $80,000 in fundraising revenue. The school's cash flow submitted on March 14, 2012, for the second interim reporting period (July 1 through January 31) reflects receipt of approximately $13,000 or 26 percent of local grants and approximately $40,000 or 50 percent of fundraising revenues. The school states that it is currently in the application process for the remaining amounts, however, at this time does not have firm commitments from donors or organizations that may provide local or private grants.

  Response… to Remedy
  - Donations raised, financial commitments, and operational reductions through June amounts to approximately $118,000
  - To date, DTEA has raised $52,450 or 68 percent in fundraising revenue
  - From March to June DTEA has received $23,450 with another $12,500 committed.
  - All though as shared, DTEA does not have firm commitments for the remaining fundraising revenue, however DTEA has personal relationships with the grantees and have support letters.

- DTEA has been operating with a negative balance with little empirical evidence of progress towards eliminating the budget deficit. Although the school has submitted details that describe donation and fundraising efforts, without confirmation from donors it is unclear whether the school will have sufficient resources to meet its obligations in the current year and sustain operations in future years.

Response... to Remedy

- This is quite the contrary; it is true that DTEA has been operating with a negative balance, but does have a definitive plan to eliminate the budget deficit over the next few years, and is detailed through the fundraising action plan. DTEA is working very diligently to follow its plan of action in this process.
- The DTEA's board has made major efforts in networking relationships, and is evident through the recent activities of donations received confirms the diligence of the DTEA's efforts. (See Fundraising Efforts & Action Plan)
- Although it was unclear to CDE whether the school would have sufficient resources to meet its obligations in the current year, DTEA was able to make proper adjustments (reductions) at the end of the school year to finish strong and sustain a position to continue operations in future years.

- Administrative costs appear excessive compared to the number of students served. DTEA employs an executive director and site principal to serve approximately less than 100 students. In total, salaries for these two administrative positions represent approximately 17 percent of the school's total budgeted revenues in 2011–12.

Response... to Remedy

- DTEA make adjustments to its staffing and was able to reduce the 17 percent seemly excessive cost to 14 percent which created a reduction $36,371 to the expenses. There was also an additional $40, 432 saving in overall staffing adjustment equaling $76,803.
- As stated by CDE, administrative costs appear excessive compared to the number of students served, but when compared to the overall staffing budgeted revenues, it is not excessive. It is also understood, administrative cost is higher in smaller school due to economy of scale.
- Although, over the years, CDE had never raised the question of excessive administrative cost until their recommendation for a Notice of Violation. There has never been a discussion sharing or indicating, what percentage to the overall total revenue for administrative cost between the executive director and principal should be.
- DTEA has approximately 104 students, considered high need students. The executive director is an administrator who is also very involved in the academic components of the school. The executive director is an active member of the special education CEO Council and serves on the executive committee of that council. He also participates with various IEP's and SST meetings. The executive director is actively involved with professional development especially around aspects of Social Emotional training for staff and board, and actively works directly with Claremont Graduate University administration as it pertains to the business of the partnership for teacher training.
- The principal's main function, in the design of the school model, is the acting instructional leader responsible for direct instructional oversight, ensuring teachers are teaching according to the model and compliance to our charter.

FISCAL ANALYSIS (AS APPROPRIATE)

Operation of DTEA **has essentially no fiscal impact on the state as a whole**. Parents who choose DTEA, want an alternative to the local public school, and believe that DTEA's teaching methods and single-minded devotion to its students, best meet the needs of their child/ren.

CONSIDERATION

It is believed, at this point, that there is substantial empirical evidence provided that remedies the alleged violations, which provides grounds for DTEA to sufficiently move forward as a state chartered school.

DTEA has been working diligently with CDE throughout the process in addressing concerns, and as an acknowledgement, our organization has maintained a sharp focus on the bottom line. We believe our relationship, over the past years, with CDE has been good. Stephen Work, our direct liaison at the CDE has done an excellent job in keeping the school informed and focused on all issues. Within the timeline of the Letter of Concern, DTEA had been and continues working cooperatively with CDE, with continued progress. DTEA is actively engaged in its fundraising campaign with progress made. Our goal over the next two years is to remedy fiscal concerns and to have a surplus.

The proceeding documentation provides supporting empirical evidence of why DTEA believes a Notice of Violation is **NO LONGER an appropriate action** and because of the positive responsive interaction with CDE, DTEA should continue direct dialogue as charter school/authorizer without any further action/s addressed through the Notice of Violation process.

CONCLUSION

In conclusion, we hope that a skewed interpretation of the Education Code 47607 (c)(3), is not used as means to intervene and remedy the fiscal challenges of charters schools, and especially Doris Topsy-Elvord Academy. As noted, this section of the code only allows revocation proceeding to ensue for specific reasons and CDE has cited that DTEA has engaged in fiscal mismanagement as a cause for the Notice of Violation. Though we acknowledge the need to address the fiscal concerns on a go forward basis, we strongly refute the suggestion by CDE that DTEA ***may*** have committed material violations.

We strongly encourage the State Board of Education to deem the Notice of Violation remedied and give DTEA the opportunity to move forward with its strong plan of action. DTEA wholeheartedly committed to doing whatever is necessary to maintain its existence for the purpose of serving some of California's most needy students.

Thank you, in advance, for your fair consideration.

Sincerely,

Marvin Smith
Executive Director
Doris Topsy-Elvord Academy
a Micro-Enterprise Charter School

DTE Academy
Fundraising Efforts

Personal Donation		
Corporate Donation	$ 5,000.00	Donated Nov. 2011
Grant	$ 23,650.00	Donations Rec'd. from March 2012 - June 29, 2012
Board Member Annual Commitment	$ 28,650.00	Donations Rec'd. from Nov. 2011 to June 29, 2012
Employee Matching Gift	$ 12,500.00	Commitments
Event/Project Revenue	$ 41,150.00	Donations/Commitments Nov. 2011 - July 9, 2012
Commitment		

	Contribution Made By:	Amount	Type	Date Rec'd.	Check No.
1	Doris Topsy-Elvord 1048 E. 45th Way Long Beach, CA 90807	$ 5,000.00	Personal Donation	11/5/2011	7856
2	La Verne Duncan 3611 Lime Avenue Long Beach, CA 90807-4143	$ 500.00	School Board Member Annual Donation (Personal)	3/23/2012	1375
3	Capital Group 333 South Hope Street Log Angeles, CA 90071	$ 5,000.00	Employee (BOLDEN, Jason) Matching Gift Contribution	3/27/2012	62909
4	William Smith 2201 Hamer Drive Placentia, CA 92870	$ 2,500.00	School Board Member Annual Donation (Personal)	4/11/2012	4180
5	Michael and Terri Thompson 8630 Ellard Drive Alpharetta, GA 30022-1828	$ 1,250.00	Personal Donation	4/12/2012	10610514
6	Rick Eber The Eber Group, LLC 13 Stoney Pt. Laguna Niguel, CA 92677-1000	$ 500.00	Corporate Donation	4/15/2012	1006
7	Carl Kemp The Kemp Group 2235 Maine Avenue Long Beach, CA 90806-4134	$ 2,500.00	School Board Member Annual Commitment (Corporate)	4/15/2012	1181

DTE Academy
Fundraising Efforts

	Contribution Made By:	Amount	Type	Date Rec'd.	Check No.
8	James and Melissa Hankla 912 Lakeshore Boulevard P.O. Box 6084 Inclinde Village, NV 89450	$ 200.00	Personal Donation	4/21/2012	276
9	Bryan Bentrott DEXUS Property Group 4000 Westerly, Suite 110 Newport Beach, CA 92660	$ 1,500.00	Personal Donation	5/18/2012	246
10	Doris Topsy-Elvord World Fair (Project Fundraiser)	$ 600.00	Event/Project Revenue	6/25/2012	153006729 Cashier's Check
11	Gary and Cheryl Birch 221 Wolftone Drive Cripple Creek, CO 80813-9528	$ 50.00	Personal Donation	5/15/2012	1393
12	Edison International 2244 Walnut Grove Ave. Rosemead, CA 91770	$ 5,000.00	Grant	5/24/2012	1000012293
13	Bess J. Hodges Foundation C/O G.M. Consulting Inc. 5100 E. Anaheim Rd. Long Beach, CA 90815-4215	$ 1,000.00	Grant	5/29/2012	3875
14	Jameseta C. Hammons 1508 W. 145th St. Compton, CA 90220-1429	$ 50.00	Personal Donation	5/30/2012	2470
15	Kenneth and Laurie Reiner 26392 Dapple Grey Drive Laguna Hills, CA 92663	$ 3,000.00	Personal Donation	6/12/2012	5371
	Total Received:	$ 28,650.00	As of June 29, 2012		
16	Watts Law Firm	$ 5,000.00	Commitment for July 9, 2012		
17	(3) Board Member Commitments 2011-12	$ 7,500.00	Remaining BOD Commitments		
	Total Commitments:	$ 12,500.00			
	Total:	$ 41,150.00	Donations/Commitments Nov. 2011 - July 9, 2012		

DORIS-TOPSY ELVORD ACADEMY

FUNDRAISING PLAN 2012 – 2015

A good fundraising plan is -- a plan, -- within a plan, -- within a plan!

Fundraising Committee Members
LaVerne Duncan, Chairperson
Marvin Smith
David Letourneau
Sandra Holden
Samuel Ledwitz, Esq

SUMMARY

Overview of Process

This Fundraising Plan was created in support of Doris Topsy-Elvord Academy, a Micro-Enterprise School, in a concerted effort by the board of directors to create a strategic financial plan to address the financial crisis in public education.

A process to develop this plan was launched in the beginning of 2012, to develop, create and implement a sound fundraising plan that would sustain school operations, alleviate a current deficit and develop a cash reserve over the next three years. Assessing and understanding the complexities of the cash-flow problem, the board met numerous times, and has identified this topic as an ongoing priority agenda item for board meetings. A fundraising committee was developed to create the plan to address the funding needs. In the process, the fundamental principles of a good fundraising plan had been discussed in detail.

With much research and evaluating funding models, the process began with the choice of two simple models from which to build the foundation of the School's plan. The committee weighed the positive and negative aspects of both models with particular attention being paid to the predictability of funding which is critical now that state funding is having continued cuts and deferrals of cash payments.

After choosing a model, the committee developed a list of potential activities for the School to pursue, again with attention being paid to the predictability as well as the productivity in terms of funding. Activities are prioritized by predictability in funding and by labor requirement for execution, and the most important activity for all board members is to become fully engaged over the next three years in support of the plan.

Recognizing the value of outside scrutiny, and in understanding the debated pros and cons of the plan, knowing that this is a working document and never set in stone, soliciting outside help with the plan is also a priority. Weighing the urgency for a fundraising plan, the need to begin immediately on the execution of this plan and for the purposes of further refining the Fundraising Plan, it was understood that this process would continue to be refined as needed going forward.

A strategic plan is an organization's blueprint for carrying out its mission statement, and the School's mission and vision is the guiding light to keep everyone on the path of success for the best interest of the bottom line… the students!

Action Plan with Objectives and Milestones

1. Evaluate the effectiveness of the board of directors and make sure members are able and willing to make significant contributions and to solicit others for major contributions.
2. Create a large advisory board of directors of individuals that want to help with expertise but not as a committed board of directors.
3. Maximize the amounts contributed by donors.
4. Create the largest possible effective base of individual donors, corporate donors, and foundation donors.
5. Create the largest possible effective base of volunteers.
6. Plan and implement Annual Signature Banquet fundraiser.
7. Formulate new ideas and pursue additional fundraiser events.
8. Create a line of merchandize for sale.
9. Augment these programs with grant funds & corporate marking dollar.

Tactics

1. Maintain a development committee of the Board of Directors— consider renaming the committee from Fundraising Committee to Development Committee.
2. Institute programs to identify, rate, evaluate, and prioritize prospects, especially those who have the ability to make major contributions, both within the ranks of current support constituencies and from lists of prospective donors.
3. Identify major prospects that may find it attractive to underwrite or sponsor a specific program, service, or department on an annual, ongoing, or one-time basis.
4. Encourage directors to maximize their donations.
5. Encourage directors to solicit prospects with which they have influence and leverage as advisory board members.
6. Assist directors in developing a volunteer network of community leaders and executives who will champion the cause (solicit) for the organization.
7. Establish and maintain a development staff and/or train existing directors and staff to help direct and staff all fund-raising initiatives.
8. Develop compelling marketing materials that effectively communicate the organization's funding requirements to the board, other volunteers, and the public.
9. Strongly utilize social media sites and online presence support to create viral marketing opportunities.

Initiatives

1. Plan, initiate, and produce a social media campaign to provide viral marketing.
2. Plan, initiate, and produce an endowment campaign and planned giving program to provide income in perpetuity to support programs, services and growth.
3. Plan, initiate, and produce other appropriate campaigns: i.e., annual, capital, underwriting and sponsorship.
4. Institute a communication program to maximize awareness of the organization's value to the community coupled with social media.
5. Institute a recognition program to honor major donors or to utilize recognition ceremonies as fundraisers.

OBJECTIVES AND MILESTONES

❖ RECRUITMENT OF SKILLED FUNDRAISERS

Recognizing that some people excel in the area of fundraising and enjoy this work, it is important that every effort is made to recruit such gifted people to serve on the Fundraising Committee and Advisory Board or Board of Directors.

Objectives with Assessment Metrics

1. Recruit at least one, and preferably two members with fundraising skills and experience to serve on the Fundraising Committee.

Critical Input Milestones

1. Recruit one new Board member specifically skilled in fundraising who will serve on the Fundraising Committee.
   Beginning: 05/2012 **Completion:** When filled

2. Recruit additional advisory members specifically skilled in fundraising or who is willing to learn and be involved to serve on the Fundraising Committee.
   Beginning: 05/2012 **Completion:** Ongoing

❖ BOARD OF DIRECTORS & STAFF DEVELOPMENT

The Board of Directors can be the greatest asset for the School when it comes to fundraising. While it is important that every Board member participate in fundraising, having several Board members who excel in this endeavor and who are willing to work on an ongoing basis is paramount to the success of the School and the fulfillment of its mission. Likewise, staff can prove to be invaluable assets, and organizational support for staff training and recruitment should be ongoing.

Board member commitment to the school's mission, through their personal financial donations, is key to successful grant writing.

Objectives with Assessment Metrics

1. All Board members to contribute significant financial donations to the extent that is reasonable and never burdensome. The goal shall be to have 100% of the Board making a financial contribution every year.
2. Expand the fundraising knowledge base and resources of Board members and staff through training and recruitment.
3. Formalize organizational expectations of Board members, staff, and committee members by developing an Organizational Plan. Whenever possible, provide further understanding and clarity with effective written materials, periodic updates on successes and shortfalls, and informal discussions in small groups of three to five people.

Critical Input Milestones

1. Strongly encourage every Board member to donate financially every year in an amount that is designated as a board member.
   Beginning: 2012 **Completion:** Ongoing

2. Each year, have a minimum of two Board members and staff attends fund development training.
   Beginning: Spring 2012 **Completion:** Ongoing

3. At least two Board members and the executive director attend the annual California Charter School Association conference in March and with at least one person focused on budgetary and fundraising initiatives.
   Beginning: 03/2013 **Completion:** Ongoing

4. Provide quarterly reports on Board member fundraising initiatives, successes, and failures with the goal of enhancing Board willingness and effectiveness.
   Beginning: 06/2012 **Completion:** Ongoing

❖ INDIVIDUAL DONORS CAMPAIGN AND RETENTION

Predictability in generating funding and flexibility in spending of individual donations underlies the importance of marketing the success and good deeds of the school. While reports indicate that education makes of 14% of philanthropic giving, and with the poor state of education and the continued budgetary cuts through the government, the general population is concerned. Individual donors are more sensitive and want to help but need direction on where to help.

Current trends may indicate that an increasing percentage of people are willing to make educational matters a household priority hence setting the stage for innovate education that's making a difference get that financial support. The biggest problem is awareness. For that reason, social media and online donations is the priority and primary source of marketing the masses of individuals share and champion the school's cause.

Objectives with Assessment Metrics

1. All Board members to participate actively in social media campaign; recruiting individuals to advance the social media cause of the school.
2. All Board members, in teams of two or three, to host social house parties with the support of staff and committee members, and funded by the organization.
3. Committee, advisory board and staff to provide resources to Board members for fulfillment of the above two objectives.
4. Develop online donation program and strategies to increase the dollars raised with a goal.
5. Develop an e-mail messaging program for communicating regularly with donors and prospects.

Critical Input Milestones

1. Encourage Board members to work individually and collaboratively to recruit four new individuals on average each month to champion the cause.
   Beginning: 07/2012 **Completion:** Ongoing

2. Strongly encourage each Board member to collaborate in recruitment of key individuals for the social house parties.
   Beginning: 07/2012 **Completion:** 07/2013

3. Provide Board members with informative publications and staff support in order to facilitate social house parties for expertise/resource recruitment.
   Beginning: 07/2012 **Completion:** 07/2013

4. Track monthly online donations and evaluate the effectiveness of programs. Evaluate and update school's plan to increase website traffic by maximizing search engine rankings with improved meta tags, promoting school's fundraising campaigns on social media sites, and increase visibility on corporate partner's websites.
   Beginning: 06/2012 **Completion:** 09/2012

5. Research tracking tools for School's website to evaluate the online fundraising program by tracking the number of visitors that are converted into new donors and the number of gifts received from existing donors in direct response to an e-mail solicitation.
   Beginning: 05/2012 **Completion:** 07/2012

❖ EVENTS & ACTIVITIES

Fundraising events can provide a substantial percentage of funding into the overall organizational budget. "Leaders & Learners" of the 21st Century Awards Banquet is the annual signature event. This venue provides the School an opportunity to involve the community at large in a very positive manner while reaching all stakeholders in support of the event. Other smaller activities and events will be conducted through the year around the signature event in support of marketing and outreach.

While fundraising events are labor intensive, special event programs will provide a venue for Board members, Advisory members, staff, and volunteers to become involved in the school's overall fundraising. Opportunities to partner on fundraisers abound and could serve the School ways other than funding.

Objectives with Assessment Metrics

1. Market the "Leaders & Learners" event annually in early spring in a venue that will accommodate a large attendance.
2. Maximize corporate marketing sponsorships through effective recognition of key "Leaders & Learners" in the corporate arena.
3. Research and evaluate the possibility of adding two or three small fundraising event each year in support of the signature event.

Critical Input Milestones

1. Start marketing signature event – reaching pre-attendees of 250.
   Beginning: 06/2012 **Completion:** On-going

2. Research, evaluate and secure event location/s.
   Beginning: 05/2012 **Completion:** 09/2012

3. Research and evaluate adding one or two small support fundraising events.
   Beginning: 05/2012 **Completion:** 09//2012

❖ CORPORATE SPONSORSHIPS

Corporate giving is on the rise throughout the country and locally. Reliability of annual giving is quite high and, generally, more than half of corporate donations will be repeated the following year. Additionally, corporate donations are typically unrestricted in spending making them ideal for fundamental organizational expenses—expenses that are typically not funded through foundations and grants.

Objectives with Assessment Metrics

1. Expand and grow relationships with current corporate donors through effective and informative solicitation and thank you letters, public recognition campaigns and letters to the editor, and/or direct service to employees. Corporations who receive this attention will be more likely to give annually.
2. Increase the number of corporate partners/donors each year by soliciting new corporate sponsors, as well as encouraging partnerships.

Critical Input Milestones

1. Actively seek corporate sponsorship renewals year after year with the goal of retaining 80% as ongoing annual donors.
   Beginning: 07/2012 **Completion:** Ongoing

2. Increase corporate partnerships by three each year.
   Beginning: 2012 **Completion:** 2015

❖ MAJOR & FOUNDATION DONORS

Major donors and foundations can be valuable sources of programmatic funding, and in rare cases, sources of operational funding. Whenever the school's goals and pursuits are compatible with foundation grant programs, every effort should be made to apply for funding. While foundation funding does, from time to time, come to the School unsolicited, members should be encourage to continually ask about opportunities and to periodically look for new sources of foundation support.

Currently, the School has started the process of research, planning and outreach to foundations that are in alignment to the School's mission and goals. To date, the School has connected with Edison, Verizon, Professional Athletes, and Capital Group foundations. This funding is essential to the School's bottom line.

Objectives with Assessment Metrics

1. Continue to research and identify opportunities for programmatic funding from foundations and trusts whenever funding is compatible with the School's programming and mission, such as the STEM.
2. Continue to meet the goals and objectives of current funders.

Critical Input Milestones

1. Encourage Board members and staff to research grant opportunities on an ongoing basis with the goal of getting one or two new grant awards annually.
   Beginning: 2012 **Completion:** Ongoing
2. Comply with current funders requirements by applying, reporting and executing foundation deliverables.
   Beginning: 2012 **Completion:** Ongoing

Appendix A - Revenues Budget Goals 2012-2015

FUNDRAISING BUDGET 2012 - 2014			
REVENUES	2013	2014	2014
Individual Donations	20,000	40,000	80,000
Fundraiser "Leaders & Learners"	30,000	60,000	80,000
Special Event/s Fundraiser	10,000	20,000	40,000
Corporate Donations	15,000	20,000	30,000
Foundations and Trusts	50,000	75,000	100,000
TOTAL	**125,000**	**225,000**	**330,000**

COUNCILMEMBER STEVEN NEAL
Ninth District, Long Beach, California

333 West Ocean Boulevard
Long Beach, California 90802
Telephone: 562-570-6137
Fax: 562-570-6659
district9@longbeach.gov
www.longbeach.gov/district9

April 30, 2012

To California State Board of Education,

This letter represents my support of Doris Topsy-Elvord Academy, a Micro-Enterprise Charter School. As the councilmember of the 9th District of Long Beach, Doris Topsy-Elvord Academy is a steeple of the new development happening in North Long Beach and is a very valuable asset to this community I represent.

I have witnessed the hard work and dedication of Marvin Smith from the start of the school and his focus has always been about what's right for the students. The school board is a dynamic group of individuals, and I have had the opportunity to be a guest to various meetings and events at the school whereby I am always impressed with their integrity and acumen of the group.

I am fully aware and understand the financial difficulty the school is facing and has faced in its continued evolution of development. In this process, I am working diligently in helping to leverage resources to see the school move pass this temporary stage.

North Long Beach is a working class community. There are high levels of childhood obesity, asthma, hypertension and diabetes. Healthcare and access to education is a huge need for this community. As compared to other parts of the city, education levels are somewhat lower. This is a community that needs more infrastructures in the sense of employment opportunities, as well as education opportunities and the school serves a critical need in our community, my district.

I am confident the school is going to move beyond this phase because I have actively joined forces with the school to help change its bottom line on behalf of the students that need it the most.

Sincerely,

Steve Neal
Councilmember, 9th District
City of Long Beach, CA

Newsweek®

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(Left to Right)
Michael McGuire, J.D. (of counsel)
Martin Ledwitz, Director of Marketing
Brian Chou, J.D., M.B.A.
L. David Gomez, C.P.A.
Matthew C. Yu, J.D. (of counsel)
Caroline Borncamp, J.D. ◊
David Kozich, M.P.A., J.D., LL.M. (of counsel)
Samuel B. Ledwitz, J.D., LL.M. ◊ +
Paul Velasco, J.D. + (of counsel)
Kamila Ledwitz, Marriage and Family Therapist
Gary Talavera, J.D., LL.M. + (of counsel – not shown)
◊ Also admitted in Washington, D.C.
+ Certified Specialist in Estate Planning, Trust & Probate Law, State Bar of California, Board of Legal Specialization

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Helping a Long Beach Charter School Serve At Risk Youths

Based on Samuel Ledwitz's life-long passion for education, our firm is honored to be the Planned Giving Partner for the Micro-Enterprise Charter Academy (MECA).

Samuel B. Ledwitz and Marvin Smith, M. A., Founder of MECA

Founded by former NFL player Marvin Smith, MECA is a truly innovative non-profit middle school that serves disadvantaged youths. A NASA partner school expanding to K-12, MECA offers unique brain-based education that has inspired MECA students to outperform all other charter middle school students in Long Beach.

www.go-meca.org

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West Los Angeles
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Newport Beach
San Marino
San Dimas

May 4, 2012

Mr. Marvin Smith
Executive Director
Micro-Enterprise Charter School
5951 Downey Ave.
Long Beach, CA 90805

The Law Firm of Bezaire, Ledwitz and Borncamp, APC is committed to supporting the Doris Topsy-Elvord Academy, a Micro-Enterprise Public School. The firm is using their resources to help the Academy with:

- Building a strong Social Media and Internet presence
- Printed literature and marketing materials
- Support from their staff in marketing, publicity and fundraising
- Establishing and managing a planned giving department

Bezaire, Ledwitz and Borncamp is Southern California's most comprehensive Estate Planning Law Firm that provides a uniquely credentialed and experienced team of professionals exclusively dedicated to Estate Planning, Administration, Litigation, Probate and related areas.

Our Firm's Managing Partner, Samuel B. Ledwitz J.D., LL.M., a former schoolteacher himself, has supported charities throughout his career . Mr. Ledwitz is a legal specialist in Estate Planning, Trust and Probate Law as Certified by the California Board of Legal Specialization of the State Bar of California. Additionally, he is a two-time winner of the prestigious Five Star Wealth Manager Award, has appeared in Newsweek Magazine, Los Angeles Magazine, and the Torrance Daily Breeze, and is rated an Excellent Rated Attorney by AVVO attorney rating services. He is a member of the Los Angeles, Long Beach and South Bay Trust and Estate Planning Councils.

Mr. Ledwitz attended Pepperdine University School of Law (J.D.) His emphasis was in estate and income tax. While at Pepperdine, he also served as a judicial extern in the Superior Court of Los Angeles. Mr. Ledwitz earned a master of law in estate planning while attending the University of Miami School Of Law (LL.M.-estate planning).

We are pleased to participate along with Apple, The NFL, The City of Long Beach, NASA, Edison, Verizon and other major organizations in the school's efforts to grow and continue to provide an invaluable resource to the surrounding community.

Our firm has an extensive network of professional and personal resources that we make available to the Academy. Through our contacts, we have arranged for The Lions Club of Long Beach to provide fundamental oral and eye care to students through the club members. We have also used our connections in the local banking industry to support the Academy. For activities such as this, we arrange press coverage and other media exposure to maximize the reach to the public and professional organizations. We have also been actively working with the Academy to provide professional technical expertise in building their donor base through Social Media channels such as Facebook and other Internet based communication methods. We began by establishing basic ways to donate over the internet (PayPal), and continue to expand in these areas.

Our firm also uses more traditional methods to raise funds for the Academy. We have been creating printed materials to bring awareness to our clients and potential donors who come to our Law offices. These individuals are capable and willing to contribute through planned giving. This has been an untapped resource up until now. However, with our Firm's backing and credentials, we now have the ability to bring in significant donations through estate planning methods.

Planned, charitable giving is defined as a method of supporting non-profits and charities that enables philanthropic individuals or donors to make larger gifts than they could make from their income. While some planned gifts provide a life-long income to the donor, others use estate and tax planning techniques to provide for charity and other heirs in ways that maximize the gift and/or minimize its impact on the donor's estate. Thus, by definition, a planned gift is any major gift, made in lifetime or at death as part of a donor's overall financial and/or estate planning.

Our Firm feels strongly that helping the children of today is what pays the most dividends for the children, their families and society as a whole. We are very pleased to be associated with the Academy and will continue to support their tireless efforts to provide for those in need.

Kindest Regards,

Samuel B. Ledwitz, J.D., LL.M.

Opus
Community Foundation

June 6, 2012

Mr. Marvin Smith
Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Dear Mr. Smith:

Thank you so much for the wonderful tour of Doris Topsy-Elvord Academy. I very much appreciate your time. Our conversation was enlightening and I now have an understanding of your school's demographic, mission, and plan for the future, which I was not previously aware of.

I am so very impressed by you, your staff, and especially your students. It is evident that you are truly making a positive and meaningful impact in their lives, even beyond the classroom. You are helping them reach their full potential through powerful education and you are giving them the tools to succeed.

It is not every day that I meet people with the passion, drive, and ability to take head on what you are accomplishing. With your continued influence, these students will someday be leaders in their own communities.

This letter is to confirm that I will be presenting a grant proposal to our Foundation Board for approval. Please be informed that our meeting will take place at the end of June and the grant awards will be determined at that time.

It is important to spread the word about what you are accomplishing and share your story with others. I am pleased to say that I am an advocate and I have already started contacting people that could be good partners and funders for your cause.

Keep up the great work. You are an inspiration to us all.

Sincerely,

Katie Steele
Executive Director
Opus Community Foundation

19900 MacArthur Blvd., 12th Floor, Irvine, CA 92612 949.250.9800

ANTIOCH
Church of Long Beach

PASTOR WAYNE CHANEY JR.

OFFICE 562 591 8778
FAX 562 599 6048
www.antiochlb.com

April 30, 2012

To California Department of Education,

Doris Topsy-Elvord Academy is a valuable asset to our community of North Long Beach and I am wholeheartedly in support of the school. I am the Senior Pastor of Antioch Church, which is one of the largest congregations in Long Beach with membership over 2500.

I am impressed with the continued development of the school, but more so, seeing the impact and growth of the students. I have members that have children at the school who have been very pleased with the work of the school. I really like the focus of the school... developing the whole child. Mr. Smith has been invited to our church on various occasions to share with my congregation the uniqueness of the school and his passion to impact the lives of youth. I have witness the hard work and dedication of Mr. Smith and his work is not in vein. We are starting to see the fruits of his labor manifested in the student promoting from the school, and at this time there is a need for an elementary and high school aspect of Doris Topsy-Elvord Academy.

As it is well documented public education is facing financial difficulty and especially charter schools. Long Beach is a large city with very few charter schools; the need for support is great. There is no school in Long Beach that is serving a population of high need middle school student with the kind of innovative approach that Doris Topsy-Elvord Academy employs which is impressive.

Understanding a need for support to Doris Topsy-Elvord Academy to get out of this tough financial crisis, we are committed to making a financial commitment. We are also going to help in marketing the school for recruitment purposes. Making a commitment in these two areas will definitely help the school financial bottom line.

I am confident in Mr. Smith's leadership and the team around him to navigate through these tough financial times and we are here to help!

Sincerely,

Wayne Chaney, Sr Pastor
Antioch Church of Long Beach

PROFESSIONAL ATHLETES FOUNDATION
THE GENE UPSHAW PLAYER ASSISTANCE TRUST FUND

Mr. Marvin Smith
Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Dear Mr. Smith,

This letter is to confirm receipt of your grant application.

The Professional Athletes Foundation (PAF) was created to provide vocational, educational and athletic opportunities for people of all races, religions and nationalities, who because of economic disadvantage or other reasons might not have the fullest opportunity to develop their abilities. Thus, we thank you and your school for your application and dedication to such causes.

Moreover, we commend you on the work that you do and continue to do in public education along with

From: "Murray, Michael T \(MIKE\)" <mike.murray@verizon.com>
Subject: Doris Topsy-Elvord Academy/Verizon
Date: Sun, May 27, 2012 8:00 am
To: "'marvin.smith@gomeca.org'" <marvin.smith@gomeca.org>,"'Carl Kemp'" <carl@kemp-group.com>

Mr. Marvin Smith
Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Dear Mr. Smith:

This is to let you know that your grant application for the Doris Topsy-Elvord Academy's Micro Enterprise Academy has been received. Thank you for your application. The application is under review and a determination will be made within the next couple of months.

I admire the work you're doing with the Academy in the midst of the state budget crises and the impact it's having on all levels of education. You have set the example that we all need to work in our respective areas -- public and private -- to secure an education that gives all children the tools to compete. Your emphasis on technology and its expanding role in education bodes well for your students.

If you have any questions about Verizon's grant making process or the status of your application, please contact me.

Sincerely,

Mike

Mike Murray
Director -- Government & External Affairs
One World Trade Center, #206
Long Beach, CA 90831
562-435-9594 office
562-708-7886 cell
562-435-9810 fax

c: Carl Kemp, Chairman of the Board of Directors

Claremont
GRADUATE UNIVERSITY

Teacher Education Department

April 24, 2012

To the California Department of Education,

I am writing to state my support for the Doris Topsy-Elvord Academy run by the Micro-Enterprise Charter Academy. The Claremont Graduate University Teacher Education Program has been a significant partner in the academic growth of this school during the 2011-2012 academic year. I have worked with Marvin Smith and his instructional leader Troyvoi Hicks to provide professional development for their teachers, place student teachers under their best instructors, write grants and provide curricular and assessment advice. The mission of the school is close to my heart and my hope is that we may continue to partner with this charter organization to create a lab school environment where our faculty have a regular presence on the campus through mentoring student and intern teachers and providing professional development for all teachers. The draw for me is the flexible environment offered by the charter school, the willingness of Mr. Smith to employ our graduates and place our student teachers, and his desire to see us create a lab school environment where we can implement research based teaching strategies and measure student growth to drive real-time instructional improvement and learning.

This year we have had four faculty members working with the school. Dr. Wayne Snyder and Dr. Ilene Foster have provided professional development in brain-targeted teaching strategies (Mariale Hardeman), classroom management and formative assessment (Page Keeley). Professional development has been driven by observed needs and teacher feedback. Additionally, Kathryn Gough and Becky Orona have provided monthly support to two student teachers and one teacher intern.

The school's emphasis has been on the whole child and preparing kids for college and career. Our focus has been on helping teachers in the areas of curriculum and assessment to enhance their benchmark testing protocol to better assess student growth and drive instruction. I am aware of the school's vulnerable financial position. I have attended recent board meetings to assess for myself the new work being done in fund raising, both short and long term. While our contributions are not monetary, all support provided has been free of charge in an effort to grow the school in both quality and quantity. I feel confident that future fund raising endeavors will bear fruit and I personally have been helping the school with grant applications although CGU as an institution is not currently in any kind of financial arrangement with DTEA.

925 North Dartmouth Avenue • Claremont, California 91711-6160

Tel: 909.621.8076 • Fax: 909.607.7793

A MEMBER OF THE CLAREMONT COLLEGES

It is my assessment that with our partnership and the new fundraising leadership on the board, we can continue to judiciously place student teachers, interns and provide all staff professional development in ways that enhance the schools continued growth and economic feasibility.

I would be more than happy to answer any questions you may have.

Sincerely,

Lisa S. Loop

Co-Director

CCSA California Charter Schools Association

1107 9th Street, Suite 200 • Sacramento, CA 95814 • p 916-448-0995 • f 916-448-0998 • www.calcharters.org

May 4, 2012

Michael Kirst, President
Members of the Board
California State Board of Education
1430 N Street, Suite 5111
Sacramento, CA 95814

Dear President Kirst and Board Members:

I am writing on behalf of the California Charter Schools Association (CCSA) regarding recommendations of the California Department of Education (CDE) and your Advisory Commission on Charter Schools (ACCS) concerning the following items on your May agenda:

Item 9: Doris Topsy-Elvord Academy: Consider Issuing a Notice of Violation Pursuant to California Education Code section 47607(d).

Doris Topsy-Elvord Academy (DTEA) is a small charter school in Long Beach with an approximate enrollment of 100 students serving grades 6-7. DTEA has 81% free/reduced price lunch eligible students and has a 2011 API of 648. This school, like many charter schools and school districts in California, is facing a tough budget environment. For DTEA, the volatility of the state budget and deferred apportionments are further exacerbated by a transient student population and the schools small size.

The CDE has identified several areas of concern regarding the school's budget and ongoing fiscal viability. These issues were first raised with the school by CDE last October and the school has been responsive to CDE's inquiries. Their Board and Executive Director are actively engaged in a fundraising plan which will hopefully remedy their budgetary concerns. We agree that there are legitimate concerns with the continued successful financial operation of DTEA, and we commend the CDE for identifying these issues and bringing them to the attention of the board. Education Code section 47604.32 not only allows, but requires an authorizer to monitor the fiscal condition of each charter school under its authority. Ensuring that DTEA is fiscally viable is an important function of a charter authorizer.

However, CCSA has grave concern over the application of Education Code section 47607(c)(3) as the means to intervening and remedying the fiscal challenges facing this school. This section only allows revocation proceeding to ensue for very specific reasons. CDE has cited that the school "has engaged in fiscal mismanagement" as the cause for this Notice of Violation. We do not believe that the fiscal challenges facing this school constitute "fiscal mismanagement" for the purposes of issuing a Notice of Violation and, in essence, beginning revocation proceedings.

While there is no explicit definition in law for what constitutes "fiscal mismanagement," the term itself connotes some wrongdoing or negligence on the part of school officials in charge of financial operations. The CDE report in no way suggests that the school has engaged in any mismanagement, negligence or other wrongdoing.

We believe that enacting the revocation process for a school in financial difficulty, absent any suggestion of "mismanagement" is an improper and unnecessarily broad interpretation of the revocation statute. We further believe that there is ample authority of the board to intervene in its role as authorizer to request a correction plan from the school that ensures its financial vitality without unnecessarily applying the revocation statute. We are concerned that applying the revocation statute in this case would establish a precedent that could greatly expand the cause of revocation, while perhaps narrowing charter authorizers' authority to intervene in the scope of normal oversight authority.

Both the school and CDE have been responsive to each other through this process, beginning in October of last year when CDE first sent a letter of concern to DTEA, and progress has been made. Their interactions to date suggest that the school and CDE could continue this dialog as part of their authorizer-charter relationship without a Notice of Violation under the revocation law. We encourage you to reject the Notice of Violation, but alternatively take other appropriate action, which may include a request for a financial plan from the school or other monitoring and corrective intervention, as part of your ongoing oversight authority.

CCSA is willing and available to provide any support or assistance we can to the school or the board to resolve these issues and secure the ongoing success of DTEA. If you have any further questions about this item, please do not hesitate to contact me. CCSA appreciates your consideration on this item.

Sincerely,

Colin A. Miller
Vice President, Policy

dsib-csd-jul12item07
Attachment 4
Page 1 of 7

Doris Topsy-Elvord Academy Academic Achievement and Enrollment Data

Table 1: 2011 Demographic Data for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend

School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
Student Enrollment	120
% Black or African American	73.3
% American Indian or Alaska Native	0.0
% Asian	0.8
% Filipino	0.8
% Hispanic or Latino	14.2
% Native Hawaiian or Pacific Islander	2.5
% White	0.8
% Two or More Races	0.8
% Socioeconomically Disadvantaged	0.8
% English Learners	5.8
% Students with Disabilities	0.0

Data source used "DMDSQL1.SSIDAggregates.SSIDenroll"

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
2 of 7

Table 2: 2011 Truancy, Suspension, and Expulsion Data for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend

School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
Enrollment	120
Truancy Number (Rate)	1 (0.80)
Suspension Number (Rate)	0 (0)
Expulsion Number (Rate)	0 (0.00)

Data source was a provided spreadsheet "umirs1011.xls"

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
3 of 7

Table 3: Academic Performance Index (API) Growth for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend

School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
API Growth for 2010-11	-21
API Growth for 2009-10	19
API Growth for 2008-09	B
API Growth for 2007-08	

Data sources used:
DMDSQL1.Eddemo2.grth2008
DMDSQL1.Accountability.grth2009
DMDSQL1.Accountability.grth2010
DMDSQL1.Accountability.grth2011

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
4 of 7

Table 4: 2011 Growth Academic Performance Index (API) Data for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend

School Name	Doris Topsy-Elvord Academy
CDS Code	**19765210117390**
Valid Scores Schoolwide	100
Schoolwide	648 (-21)
Black or African American	634 (15)
American Indian or Alaska Native	- (-)
Asian	- (-)
Filipino	- (-)
Hispanic or Latino	- (-)
Native Hawaiian or Pacific Islander	- (-)
White	- (-)
Two or More Races	- (-)
Socioeconomically Disadvantaged	657 (-18)
English Learners	- (-)
Students with Disabilities	- (-)
Statewide/Similar Schools Rank	2 / -

Data sources used:
DMDSQL1.Accountabilty.grth2011
DMDSQL1.Accountabilty.APIB2010

- The Growth API is not displayed when there are less than 11 valid scores
(-) The student group is not numerically significant, therefore no growth determination was made

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
5 of 7

Table 5: 2011 Adequate Yearly Progress (AYP) Data for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend

School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
Met AYP Criteria	No
# Criteria Met/# Criteria Applicable	7 / 11
2011-12 Program Improvement (PI) Status	In PI
2011-12 Program Improvement (PI) Year	Year 1

Data sources used:
DMDSQL1.Accountability.apr11a
DMDSQL1.Accountability.apr11pi_sch

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
6 of 7

Table 6: 2011 Adequate Yearly Progress (AYP) Data: Percent Proficient in English-Language Arts (ELA) for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend	
ELA % Proficency Target: 67.6	
School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
Number of Valid Scores Schoolwide	100
Schoolwide (Met Target)	34.0 (No)
Black or African American (Met Target)	31.1 (Yes)
American Indian or Alaska Native (Met Target)	-- (--)
Asian (Met Target)	-- (--)
Filipino (Met Target)	-- (--)
Hispanic or Latino (Met Target)	40.9 (--)
Native Hawaiian or Pacific Islander (Met Target)	-- (--)
White (Met Target)	-- (--)
Two or More Races (Met Target)	27.3 (--)
Socioeconomically Disadvantaged (Met Target)	36.3 (No)
English Learners (Met Target)	-- (--)
Students with Disabilities (Met Target)	-- (--)

Data sources used:
DMDSQL1.Accountability.apr11a
DMDSQL1.Accountability.apr11pi_sch

-- Percent proficient is not displayed when there are less than 11 valid scores
(--) The student group is not numerically significant, therefore no AYP determination was made

California Department of Education
2012

dsib-csd-jul12item07
Attachment 4
7 of 7

Table 7: 2011 Adequate Yearly Progress (AYP) Data: Percent Proficient in Mathematics for the Surrounding Schools Where Pupils Would Otherwise be Required to Attend	
Math % Proficency Target: 68.5	
School Name	**Doris Topsy-Elvord Academy**
CDS Code	**19765210117390**
Number of Valid Scores Schoolwide	99
Schoolwide (Met Target)	25.3 (No)
Black or African American (Met Target)	25.0 (--)
American Indian or Alaska Native (Met Target)	-- (--)
Asian (Met Target)	-- (--)
Filipino (Met Target)	-- (--)
Hispanic or Latino (Met Target)	13.6 (--)
Native Hawaiian or Pacific Islander (Met Target)	-- (--)
White (Met Target)	-- (--)
Two or More Races (Met Target)	27.3 (--)
Socioeconomically Disadvantaged (Met Target)	24.1 (--)
English Learners (Met Target)	-- (--)
Students with Disabilities (Met Target)	-- (--)

Data sources used:
DMDSQL1.Accountability.apr11a
DMDSQL1.Accountability.apr11pi_sch

-- Percent proficient is not displayed when there are less than 11 valid scores
(--) The student group is not numerically significant, therefore no AYP determination was made

California Department of Education
2012

DORIS TOPSY-ELVORD ACADEMY
STUDENT RECRUITMENT PLAN 2012-13

Mission:

Doris Topsy-Elvord Academy will achieve and maintain enrollment through organizational-wide commitment and improvement to recruitment, retention and student success.

Objective Operational Plan:

PLAN GOAL: MARKETING

Objective: To identify strategies that will promote DTEA Charter School as the choice public school in targeted area/s.		
Results or Benefits Expected: Increase Enrollment by 100% in 2012-13		
Strategies	**Position Responsible**	**Assessment/Evaluation Measures/Strategies**
Improve Internal Marketing & Communication: Train staff for better use of school website and social media feature as an information tool for daily updates of important events/dates to school employees, students and parents	-Principal -Instructors -DTEA Staff	Update events monthly Train Staff bi-annually
Create affordable, technologically-advanced ways to reach both internal/external markets: Use collected parent & student e-mail address, and text messaging to advertise/communicate events and activities	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to number of student email entries and responses
Website Design: Distribute pertinent information regarding uniqueness of programming, events and enrollment information	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to website usage
Meta Tags: Branding Uniqueness information will be distributed to parents and local community by website and printed material	-Executive Director -Principal -DTEA Staff	Annually review number of advertisements solicited and review student/parent survey data to determine most effective medium
Multi Media: Improve external marketing by placing DTEA Advertisement in Local Newspapers, Journals, Public Radio and TV Programs	-Executive Director -Principal -DTEA Staff	Advertisement annually Analyze cost per ad and analyze investment compared to increased student traffic and Information requests

STUDENT RECRUITMENT PLAN 2012-13

PLAN GOAL: RECRUITMENT

Objective: Assess current recruitment strategies throughout the organization and identify new strategies that will enable DTEA Charter School to effectively recruit more students.

Results or Benefits Expected: Increase Enrollment by 100% in 2012-13

Strategies	Position Responsible	Assessment/Evaluation Measures/Strategies
Improve Internal Marketing & Communication: Train staff for better use of school website and social media feature as an information tool for daily updates of important events/dates to school employees, students and parents	-Principal -Instructors -DTEA Staff	Update events monthly Train Staff bi-annually
Create affordable, technologically-advanced ways to reach both internal/external markets: Use collected parent & student e-mail address, and text messaging to advertise/communicate events and activities	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to number of student email entries and responses, and text messaging
Website Design: Distribute pertinent information regarding uniqueness of programming, events and enrollment information	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to website usage
Meta Tags: Branding Uniqueness information will be distributed to parents and local community by website and printed material	-Executive Director -Principal -DTEA Staff	Annually review number of advertisements solicited and review student/parent survey data to determine most effective
Multi Media: Improve external marketing by placing DTEA Advertisement in Local Newspapers, Journals, Public Radio and TV Programs	-Executive Director -Principal -DTEA Staff	Advertisement 4-6 months annually. Analyze cost per ad and analyze investment compared to increased student traffic and Information requests

STUDENT RECRUITMENT PLAN 2012-13

PLAN GOAL: RETENTION

Objective: Identify best practices that are currently being used and identify new strategies that will enable DTEA to retain as many students as possible and assist students to reach their academic goals with parent involvement.

Results or Benefits Expected: Increase number of students enrolling and succeeding

Strategies	Position Responsible	Assessment/Evaluation Measures/Strategies
Improve Internal Marketing & Communication: Train staff for better use of school website and social media feature as an information tool for daily updates of important events/dates to school employees, students and parents	-Principal -Instructors -DTEA Staff	Update events monthly Train Staff bi-annually
Create affordable, technologically-advanced ways to reach both internal/external markets: Use collected parent & student e-mail address, and text messaging to advertise/communicate events and activities	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to number of student email entries and responses, and text messaging
Website Design: Distribute pertinent information regarding uniqueness of programming, events and enrollment information	-Principal -Instructors -DTEA Staff	Each quarter, collect data related to website usage
Meta Tags: Branding Uniqueness information will be distributed to parents and local community by website and printed material	-Executive Director -Principal -DTEA Staff	Annually review number of advertisements solicited and review student/parent survey data to determine most effective
Multi Media: Improve external marketing by placing DTEA Advertisement in Local Newspapers, Journals, Public Radio and TV Programs	-Executive Director -Principal -DTEA Staff	Advertisement 4-6 months annually. Analyze cost per ad and analyze investment compared to increased student traffic and Information requests

DORIS TOPSY-ELVOR ACADEMY
STUDEN RECRUITMEN STRATEGIES

Student Recruitment

The school choice movement has taken hold nationally, and families have a number of K-12 options. While offering options is clearly positive for students and families, the competition created by these options makes it especially important that DTEA have a strong student recruitment program.

Through research, DTEA is well aware that children as low as elementary school today have greater influence in parent decision-making. DTEA is recruiting students at all times and continues throughout the year, always marketing the uniqueness of the school. Recruiting students for the first year of operation is often the most difficult, as there is little for families to see, no track record. Although a handful of schools open with a waiting list of students, far too many schools find themselves recruiting students in late August. A variety of recruitment strategies are listed and DTEA uses some combination of strategies that best fill the needs.

Below are some of the strategies and tips that might be useful with whichever recruitment strategies are being used in recruiting students. Depending on the type of program at the school, the audience of prospective students, there is probably a combination of tactics used in the recruitment plan.

- Make sure we have a clear vision and mission and can communicate it to the intended audience.
- Focus on our program's strengths, but don't "over promise." Be honest and realistic. Nothing hurts a school more than being unable to deliver on significant elements of the program. Focus on what is good about our school, not what is bad about the district schools.
- Where appropriate, use hands-on activities to help families understand your program.
- Develop a clear, succinct brochure that describes our program. It doesn't have to be fancy or expensive, but make sure it is well written and appealing. You don't want the public to have a negative impression of the school because the brochure is full of spelling errors or is badly copied. You might want to develop a web page where families could request materials, or even register, online.
- Whatever kinds of marketing materials is developed, make sure prospective parents know how to follow-up and get in touch with a live person at the school. Make sure the contact information is accurate.
- Make sure we understand the target population. Make sure materials and presentations are in the language and at a level the population can understand.
- Often a more targeted recruitment effort is more successful than a wider effort. For example, running ads in a neighborhood newspaper may generate more interest than those in a major paper.
- Use parents and students. They will be your best recruiters.

Recruiting Strategies

- **Encourage current parents and current or former students to spread the word about DTEA**. A good word from a neighbor or friend will mean more to a parent than any message coming directly from the school.

- **Go Door-to-Door Passing Out Material**. This can be particularly effective if you're targeting specific neighborhoods. The door-to-door strategy is clearly very labor-intensive. We may want to recruit volunteers - parents, older students, other community members to help.

- **Find out where the targeted audience is likely to spend time**. Drop off school materials in those places, e.g., daycare centers, community recreation centers, barber and beauty shops, libraries, stores and other local businesses.

- **Utilize Website and Social Media.** As an effective tool to reaching the mass and a targeted following.

- **Post flyers/posters advertising school.** Around the neighborhoods you are targeting.

- **Seek Attention In The Local Media**. This can include calling and sending information on our program to newspapers, radio and TV stations serving your target area. A new school starting up is likely to be considered noteworthy enough to merit some attention. When interviewed by the local press, it's best to avoid negative comments, i.e., don't talk negative of the existing school system. Clearly state your purposes in starting the new school and how your program will help children learn, and what is unique about our school.

- **Take Out Paid Advertising In The Local Media**. We have a limited budget for marketing, but the local newspapers and journals can be relatively inexpensive, and this is another way to put our name and message before the public.

- **Participate in local street fairs or festivals**. Community groups or local chambers of commerce will be able to share about these events, which may allow us to have a table or booth to hand out information about the school.

- **Announce School Events Through Public Service Listings.** Local newspapers may have events calendars where a school grand opening or open house for prospective students and parents can be listed.

- **Attend meetings of community groups to talk about your program**. This could include block clubs, community councils, tenants' organizations, and cultural organizations, or places of worship.

- **Contact Social Workers, Probation Officers, Welfare Officials and People in Similar Occupations.** Give them information that they in turn can give to families with whom they work.

- **Join the local Chamber of Commerce, and/or attend meetings of a local business association.** In order to build ties to the business community.

- **Contact real estate agents so they will have information on our school.** Give to potential homebuyers who are often interested in area schools.

- **Do mass mailings to targeted areas**. Mailing lists are available from a variety of list brokers (look under Mailing Services in the Yellow Pages) and can easily be targeted to specific groups by geographic area and family characteristics, e.g., parents with children in a specific age range. We'll be able to reduce mailing costs a great deal if we have a non-profit bulk-mailing permit.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-1

ITEM #W-01

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two school districts to waive portions of California Code of Regulations, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school. Waiver Number: Moorpark Unified School District 46-3-2012 San Bernardino City Unified School District 138-2-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions:

1. Each charter school will operate up to five tracks; each track will offer a minimum of 175 days.

2. For each track, each charter school will offer the minimum annual instructional minutes as specified by California *Education Code* (*EC*) Section 47612.5.

3. No track will have fewer than 55 percent of its school days completed prior to April 15.

4. Average daily attendance (ADA) will be calculated separately for each track by the method set forth in *California Code of Regulations*, Title 5 (5 *CCR*), Section 11960, and then the resulting attendance figures will be totaled.

5. For each pupil attending more than one track over the course of the fiscal year, including intersessions and supplemental tracks, attendance must be calculated individually by pupil. In that event, the charter school is directed to work with the CDE to determine the appropriate method for configuring individual student's ADA to ensure that each student does not generate more than one ADA.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its July 2000 meeting, the State Board of Education (SBE) approved SBE's Policy #00-05 Charter School ADA: Alternative Calculation Method, available at http://www.cde.ca.gov/re/lr/wr/documents/charterschoolada.doc, which applies to this

waiver request. Many multi-track calendar waivers for charter schools have been approved by the SBE in the past 11 years.

At the July 2011 SBE meeting, the Moorpark Unified SD requested a waiver on behalf of the IvyTech Charter School, to operate a three-track calendar, with a minimum of 175 days of instruction in each track. Because the waiver was granted for two consecutive years, *EC* 33051(b) applied, and the district was not required to reapply as long as the information contained in the request remained current. Because the district is now requesting to operate two tracks instead of three, the district is submitting a request for a renewal of the previous waiver.

SUMMARY OF KEY ISSUES

Moorpark Unified SD requested and was granted a two-year waiver, on behalf of IvyTech Charter School, at the July 2011 SBE meeting to operate a three-track calendar. The Moorpark Unified SD is now requesting a renewal of the previous waiver to allow the charter school to operate a two-track calendar. In addition to running a more traditional track starting at the end of August through June, the IvyTech Charter School serves a population of students that would benefit from a more flexible schedule. This population includes students released from state and county correctional facilities, home schooled students, credit recovery students, dropout recovery and/or students pursuing a General Education Diploma. The two-track calendar would allow students to start at any time of the year and provides students with a flexible-learning environment and opportunity to be successful in achieving their individual educational goals. Each track will offer a minimum of 175 days of instruction.

The San Bernardino City Unified SD is requesting this waiver on behalf of Casa Ramona Academy for Technology, Community and Education, Inc., to allow the charter school to operate a two-track calendar. The school is a small kindergarten to grade twelve charter school. In order to better accommodate teacher preparation, pupil registration, and graduation/promotion ceremonies, the elementary and middle-high school calendars are offset by one day. The elementary school began on August 22, 2011, and ended June 5, 2012. The middle-high school began on August 23, 2011, and ended June 6, 2012. Both tracks offer 180 days of instruction.

Section 11960(a) of 5 *CCR* defines regular ADA in a charter school and establishes the calculation for determining ADA. The calculation divides the total number of pupil-days attended by the total number of days school was actually taught. This section also requires a proportional reduction in a charter school's funding for each day less than 175 days if the school operates fewer than 175 days in any fiscal year. (This requirement has been reduced to 170 days by *EC* Section 46201.2, through the 2014–15 fiscal year, and further reduced to 163 days by *EC* Section 46201.3 for the 2011–12 fiscal year only.)

As referenced in the SBE Policy #00-05:

> "Attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. “Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

A multi-track calendar waiver is typically requested by charter schools that operate on a multi-track, year-round education calendar in order to claim the full ADA. In a multi-track calendar, the total number of days that school is taught may exceed 200 days. However, each track of students is only provided instruction for the number of days in a given track, typically 175 days. Therefore, a waiver is necessary for a multi-track charter school to separately calculate ADA in each track, rather than for the school as a whole.

On the basis of this analysis, the CDE recommends approval of these waivers with the conditions noted above.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: See each individual waiver

Authority for Waiver: *EC* Section 33050

Period of request: See Attachment 1

Local board approval date(s): See Attachment 1

Public hearing held on date(s): See Attachment 1

Bargaining unit(s) consulted on date(s): See each individual waiver

Name of bargaining unit/representative(s) consulted: See each individual waiver

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate): See each individual waiver

Public hearing advertised by (choose one or more): See each individual waiver
☐ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: See Attachment 1

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: See Attachment 1

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Summary Table (1 Page)

Attachment 2: Moorpark Unified SD General Waiver Request (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: San Bernardino City Unified SD (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Summary Table

Waiver #	School District	Period of Request	Local Board Approval Date	Public Hearing Date	Advisory Committee and Date Consulted	Recommended for Approval (Yes/No)
46-3-2012	Moorpark Unified School District	**Requested:** July 1, 2012 to June 30, 2013 **Recommended:** July 1, 2012 to June 30, 2013	April 24, 2012	April 12, 2012	School Site Council April 12, 2012	Yes - with conditions
138-2-2012	San Bernardino City Unified School District	**Requested:** July 1, 2011 to June 30, 2012 **Recommended:** July 1, 2011 to June 30, 2012	July 19, 2011	July 1, 2011	San Bernardino City Unified School District July 19, 2011	Yes – with conditions

Created by the California Department of Education
May 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

First Time Waiver: ___
Renewal Waiver: _X__

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	6	7	3	9	4	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Moorpark Unified School District	Jacqueline Gardner	msgardner@ivytechcs.org

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
95 East High Street Moorpark CA 93021	(805) 222-5188 Fax Number: (805) 426-8245

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2012 To: 6/30/2013	04/24/2012	4/12/2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number) Circle One: *EC* or *CCR 5*
Topic of the waiver:
Topic of the waiver: 2-track year round Independent Study school calendar

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 21-4-2011 and date of SBE Approval__July 13-14 2011____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): IvyTech Charter School has no bargaining unit

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* Newsletter/Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Our school site counsel reviewed waiver 3/22/2011 and again 4/12/2012

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California Code of Regulations, Title 5, Section 11960

a) As used in *Education Code* Section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "~~Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school.~~ For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Renewal Waiver

See Attached

8. Demographic Information:
IvyTech Charter School has a student population of 120 with a waitlist and is serving the urban / rural communities of Ventura and Los Angeles Counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

During IvyTech Charter Schools first year of operations, we have identified the need for a more flexible school calendar due to our unique student population mix. The following is a list of identifiable populations that we serve along with how a more flexible schedule with benefit them.

- Students released from state and county correctional facilities - Parents and Probation officers are looking for shorter blocks of vacation time to minimize the amount of free un-supervised time students have.

- Home Schoolers – Parents have requested additional assignments during vacation times such as winter break, spring break and this pending summer break.

- Credit Recovery students – Students who are deficient in a large number of credits, may feel daunted and discourage from attempting to make up them up. By IvyTech Charter School offering a more flexible schedule these student are more likely to find the necessary time, between family commitments and work, to make up the needed credits for graduation.

- Dropout Recovery / GED Prep – Several students in this target population have expressed the desire to pursue a traditional High School diploma and/or General Education Diploma (GED). IvyTech feels that given long periods of downtime could result in these students not returning to complete the necessary course of study.

IvyTech Charter School is an open enrollment school that allows student to start at any time of the year. Because the populations listed above do not identify all IvyTech Students, we have a more traditional track starting the end of August through June. This allows IvyTech to provide our students with a flexible-learning environment and provides them the opportunity to be successful in achieving their individual educational goals.

As a result, IvyTech Charter School expects to see increased student performance as well as an increase in student attendance. This will also enhance our relationship with the community who are looking for program enhancements as well as provide our teachers with professional development opportunities and built in time to evaluate and improve course offerings.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	6	7	8	7	6

Local educational agency: San Bernardino City Unified School District for Casa Ramona Academy for Technology, Community and Education, Inc.	Contact name and Title: Mohammad Z. Islam Chief Business & Financial Officer	Contact person's e-mail address: Mohammad.Islam@sbcusd.com
Address: (City) (State) (ZIP) 777 North F Street, San Bernardino, CA 92410		Phone (and extension, if necessary): (909) 381-1164 Fax Number: (909) 383-1375
Period of request: (month/day/year) From: 7/1/2011 To: 6/30/2012	Local board approval date: (Required) July 19, 2011	Date of public hearing: (Required) July 19, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **CCR Title 5, Section 11960(a)** Circle One: *EC* or ***CCR***

Topic of the waiver: **Charter Multi-track Calendar (Offset of elementary and middle/high school calendars by one day)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 3/8/12

Name of bargaining unit and representative(s) consulted: **Casa Ramona Academy / California Teachers Association, Mr. Rivas, President**

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* **Notice posted at District office and District website. Also, a letter was sent home to all students enrolled and it was posted at the Child Development Center.**

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
San Bernardino City Unified School District
Date the committee/council reviewed the waiver request:
7/19/11
Were there any objection(s)? No _X_ Yes ___ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Enable Casa Ramona Academy for Technology, Community and Education, Inc., a California Public Charter School, to apply for a waiver under CCR-Title 5, Section 11960 (a), to allow the charter school attendance to be calculated as a regular multi-track school.

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Casa Ramona Academy is a small K-12 charter school. In order to better accommodate teacher preparation, pupil registration, and graduation/promotion ceremonies, the elementary and middle/high school calendars are offset by one day. Elementary school begins on August 22, 2011, and ends June 5, 2012. Middle/high school begins August 23, 2011, and ends June 6, 2012. Both tracks encompass 180 school days.

This change was made to better serve our students with orientation, graduation and various ceremonies.

12. Demographic Information:
San Bernardino City Unified School District has a student population of **50,572. Casa Ramona Academy for Technology, Community and Education, Inc.** has a student population of **352**. They are located in an **urban area** in **San Bernardino** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Mohammad Z. Islam** **Chief Business and Financial Officer**	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-2

ITEM #W-02

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two local educational agencies to waive portions of California *Education Code* Section 51745.6 and *California Code of Regulations,* Title 5 Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios. Waiver Numbers: Kingsburg Elementary Charter School District 140-2-2012 Ripon Unified School District 22-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

These waivers are recommended for approval with the following conditions:

1. All excess funds generated by the increased pupil-to-certificated-employee ratio will be expended on students enrolled in the California Connections Academy at Ripon and in the Kingsburg Central Valley Home School Program.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has received waiver requests from local educational agencies regarding the independent study pupil-to-teacher ratio for at least 20 years. The SBE Policy #01-03 (April 2001, http://www.cde.ca.gov/re/lr/wr/documents/independentstudy.doc) provides guidelines for waiver requests of the entire *EC* Section 51745.6. The guidelines include the following as an example of a reasonable rationale to approve the waiver:

> … if the purpose of the higher ADA-to-teacher ratio is to redirect resources to pay for other services for the direct benefit of students in independent study, such as intensive counseling service provided by appropriately credentialed staff.

Since 2001, average class sizes in all educational settings have increased due to budget restrictions. The SBE has approved more than 100 class size waivers; the largest has allowed for an average of 35 students per class.

SUMMARY OF KEY ISSUES

The waiver request for the **Kingsburg Elementary Charter District's Central Valley Home School Program** is for three fiscal years (2010–11 through 2012–13). However, the pupil-to-teacher ratio cannot be waived for the 2010–11 year due to an audit finding

for the 2010–11 fiscal year which the district should appeal through the Education Audit Appeals Panel. (See the SBE policy regarding Apportionment Significant Audit Exceptions [Retroactive Waivers] at http://www.cde.ca.gov/re/lr/wr/documents/auditpolicy.doc).

In addition, the district is requesting a pupil-to-teacher ratio that exceeds the SBE 10 percent policy (see Policy #01-03: Independent Study: Average Daily Attendance (ADA)-to-Teacher Ratio April 2001). The district is requesting 28:1. However, the pupil-to-teacher ratio of the largest unified district within the county (Fresno Unified) is 25:1, so Kingsburg will be limited to 27.5:1.

The Central Valley Home School is a program of the Kingsburg Elementary Charter District; therefore it does not have an Academic Performance Index (API) score.

The waiver request for the **Ripon Unified School District's California Connections Academy at Ripon** is for a school that **will open on September 4, 2012**. As a result, there are no API data and no enrollment data. Furthermore, as an independent study virtual school, no teacher will see 28 students at one time. In addition, many higher pupil-to-certificated-employee ratios have been approved in the past several years due to ongoing budget constraints.

Demographic Information: See Attachment 1

Authority for Waiver: *EC* Section 33050

Period of request: See Attachment 1

Period of recommendation: See Attachment 1

Local board approval date(s): See Attachment 1

Public hearing held on date(s): See Attachment 1

Bargaining unit(s) consulted on date(s): Both district waiver requests are for charter schools, which have no bargaining units. See Attachment 1.

Public hearing advertised by (choose one or more): See Attachment 1

Advisory committee(s) consulted: See Attachment 1

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Chart of Schools Requesting a General Waiver for the Independent Study Pupil-to-Teacher Ratio (1 page).

Attachment 2: Kingsburg Elementary Charter School District General Waiver Request 140-2-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office).

Attachment 3: Ripon Unified School District General Waiver Request 22-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office).

Independent Study State Board of Education Waivers for July 2012 SBE Meeting

Waiver Number	County District School	Meets SBE Waiver Policy (Yes/No)	Demographic Information	Period of Request and Recommendation	Advisory Committee Consulted	Public Hearing Held On	Position of Bargaining Unit/Date Consulted
140-2-2012	Fresno Kingsburg Elementary Charter Central Valley Home School*	Yes	Student population of 158 (as of February 1, 2012) Located in a rural district in Fresno County	Requested: July 1, 2010 to June 28, 2013* Recommended: July 1, 2011 to June 30, 2013	School Site Council February 21, 2012 No Objections	Notice was posted at each school and public library	No bargaining unit (charter)
22-4-2012	San Joaquin Ripon Unified California Connections Academy	Yes	Expected student population of 300 or more in Fall 2012 Located in and sponsored by Ripon Unified School District, a rural district in San Joaquin County. As a virtual school, the charter will enroll students from all areas of San Joaquin County and contiguous counties	Requested: July 1, 2012 to June 29, 2014 Recommended: July 1, 2012 to June 29, 2014	Board of Directors of California Connections Academy at Ripon Approved waiver request at Public Board Meeting Mary 28, 2012 No Objections	Notice was posted at each school	No bargaining unit (charter)

Created by the California Department of Education
May 30, 2012

* This “school” is a program of the district, and does not have Academic Performance Index or growth targets.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x_

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE

Local educational agency: Kingsburg Elementary Charter School District on behalf of Central Valley Home School	Contact name and Title: Dr. Wesley Sever, Assistant Superintendent	Contact person's e-mail address: wsever@kingsburg-elem.k12.ca.us
Address: 1310 Stroud Ave. (City) Kingsburg (State) CA (ZIP) 93631		Phone (and extension, if necessary): 559-897-2331 Fax Number: 559-897-4784
Period of request: (month/day/year) From: 7/1/2010 To: 6/28/2013	Local board approval date: (Required) February 21, 2012	Date of public hearing: (Required) February 21, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 51745.6 & CCR Title 5 sections 11704 and portions of 11963.4(a)(3) Circle One: *EC* or *CCR*

   Topic of the waiver: Pupil to Teacher Ratio for Independent Study Charter School

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval_N/A_
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _x_ No __ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): N/A

   Name of bargaining unit and representative(s) consulted: N/A

   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): N/A

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _x_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: School Site Council met on February 21, 2012

   Were there any objection(s)? No x Yes *(If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   California Education Code Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704 and portions of 11963.4(a)(3) as Follows:

   …and the ratio of average daily attendance for the independent study pupils to full-time certified employees responsible for independent study does not exceed a pupil-teacher ratio of ~~25:1~~ ~~28:1~~ 27.5:1

   The Kingsburg Elementary Charter School District Governing Board approved the waiver request a board meeting after holding a public hearing.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.
   Central Valley Home School (CVHS) is part of the Kingsburg Elementary Charter School District and has been providing a high quality home school education to students in Central California for 14 years. Teachers work from the school office serving students in a large geographically is using a variety of techniques both traditional and technological. An increase in the pupil-to-teacher ratio will allow cost savings, as well as maximize the resources that the school can offer to students. Kingsburg Elementary Charter School District is one of only eight charter districts in the state. It is also the largest. The District Feels that a more equitable measure of an average class size should be based upon its own ADA rather than that of the largest district in our county (which is Fresno Unified, 75,000+ students). In addition, given the budget constraints caused by the current financial crisis, CVHS proposes to implement needed budget cuts by utilizing focused instructional coaching methods effective technological resources when working with parents. Despite fiscal challenges, CVHS has integrated an intervention component for the most needy students. In addition, if any additional revenue results from the increased ratio, it will be used for services that support student learning in the home-School environment; specifically, enhanced course offerings, increased intervention classes, test preparation courses, and/or increased access to technological courses.

8. Demographic Information:
   (*District/school/program)*__ has a student population of __158__ and is located in a _rural district_(*urban, rural, or small city etc.)*__ in __Fresno_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☐ Yes x☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No x☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	6	5	0

Local educational agency: Ripon Unified School District on behalf of California Connections Academy @Ripon	Contact name and Title: Frances Sassin Business Manager, California Connections Academy Schools and Louise Johnson, Superintendent, Ripon Unified School District	Contact person's e-mail address: fsassin@sbcglobal.net lbjohnson@sjcoe.net
Address: (City) (State) (ZIP) 304 North Acacia Ave Ripon CA 95366		Phone (and extension, if necessary): (949) 461-1667 X309 Fax Number: (949) 425-8791
Period of request: (month/day/year) From: 7/1/2012 To: 6/29/2014	Local board approval date: (Required) April 2, 2012	Date of public hearing: (Required) April 2, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR: BOTH*

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of 11963.4(a)(3),
Topic of the waiver: Pupil to Teacher Ratio for Independent Study Charter Schools

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below: See comment below

Bargaining unit(s) consulted on date(s):

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate): Independent Charter School does not have a bargaining unit

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_ __ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

The Board of Directors of California Connections Academy @ Ripon approved the waiver request at a public board meeting.

Date the committee/council reviewed the waiver request: March 28, 2012

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704 and portions of 11963.4(a)(3) as follows:

…and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of ~~25:1~~ 27.5:1

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

California Connections Academy (CalCAR) will provide a high quality virtual education to students in Northern California. Teachers work primarily from the school office but serve students in a large geographic area using a variety of technological tools. An increase in the pupil to teacher ratio will allow cost savings while maximizing the resources that a virtual school can offer to students. Given the budget constraints caused by the current financial crisis, CalCAR proposes to implement any needed budget cuts by fully utilizing such efficiencies offered by on-line education. Despite fiscal challenges, if any additional revenue results from the increased ratio, it will be directed back to services which support student learning in the virtual environment, such as enhanced curricular offerings, increased test preparation services, increased remediation and intervention services for struggling students, and/or increased access to technology tools.

8. Demographic Information:
The charter school expects to have a student population of 300 or more in Fall 2012, and is located in and sponsored by Ripon Unified School District, a rural district in San Joaquin County. However, as a virtual school, the charter will enroll students from all areas of San Joaquin County and contiguous counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-3

ITEM #W-03

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by one local educational agency to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701, to remove their schools from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year. Waiver Number: Upland Unified School District 11-5-2012 Upland Unified School District 23-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of two waiver requests for schools on the 2012-13 Open Enrollment list (both requests are from Upland Unified School District) (Attachments 2 and 3) that meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc). These waivers are recommended for approval on the condition that the local educational agency (LEA) granted this waiver must honor any transfer requests pursuant to the Open Enrollment Act. Granting these waivers would allow the schools to have their names removed from the 2012–13 Open Enrollment List as requested. These waivers do not affect the standing of any other school, as each of these waivers is specific to the individual school named in the attached waivers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is the third time the SBE has heard a request from an LEA that meets the SBE streamlined waiver criteria to be removed from the 2012-13 Open Enrollment list. The SBE approved the streamlined waiver requests presented at the May 2012 meeting.

SUMMARY OF KEY ISSUES

The methodology used in creating the list of 1,000 lowest achieving schools, per the statute, resulted in some higher achieving schools being placed on the list while at the same time some schools with lower APIs were not included on the list. This was primarily due to the statutory provision that an LEA can have no more than 10 percent of its schools on the list.

Identification as a “low-achieving” school can have a significant educational, economic, and political impact on the school community. The label of “low-achieving” does not take into account the API scores for schools whose scores have risen or are maintained closer to the higher levels of achievement. The perception that the school is “low-achieving” may cause unwarranted flight from the school community and may negatively impact fiscal issues.

Because these are general waivers, if the SBE decides to deny either waiver, it must cite one of the seven reasons in *EC* Section 33051(a).

> *EC* 33051(a) The State Board of Education shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following:
> (1) The educational needs of the pupils are not adequately addressed.
> (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request.
> (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.
> (4) Pupil or school personnel protections are jeopardized.
> (5) Guarantees of parental involvement are jeopardized.
> (6) The request would substantially increase state costs.
> (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: See each waiver request

Authority for Waiver: *EC* Section 33050

Period of request: See Attachment 1

Period of recommendation: See Attachment 1

Local board approval date(s): See each waiver request

Public hearing held on date(s): See each waiver request

Bargaining unit(s) consulted on date(s): See Attachment 1

Public hearing advertised by (choose one or more): See each waiver request

Advisory committee(s) consulted: See each waiver request

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Chart of Schools Requesting a General Waiver from the 2012-13 Open Enrollment List (1 page).

Attachment 2: Upland Unified School District General Waiver Request 23-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office).

Attachment 3: Upland Unified School District General Waiver Request 11-5-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office).

Schools Requesting a General Waiver from the 2012-13 Open Enrollment List

Waiver #	County District School	2011 District Growth API	2011 School API Growth*		2011 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
11-5-2012	San Bernardino Upland Unified Upland Elementary	807	Schoolwide Hispanic or Latino SED EL	797 787 787 764	Yes No Yes No	No	Yes	5, 7	Year 2	Support 03/06/2012 and 03/14/2012	**Requested** July 1, 2012 to June 30, 2013 **Recommended** July 1, 2012 to June 30, 2013	Yes
23-4-2012	San Bernardino Upland Unified Baldy View Elementary	807	Schoolwide Hispanic or Latino SED EL	813 798 797 762	Yes Yes Yes No	No	Yes	5, 8	Year 1	Support 03/06/2012 and 03/14/2012	**Requested** July 1, 2012 to June 30, 2013 **Recommended** July 1, 2012 to June 30, 2013	Yes

*Only student groups that are numerically significant are included in this column.

Prepared by the California Department of Education
Revised: 06/01/2012 3:48 PM

SED – Socioeconomically Disadvantaged
EL – English learner

23-4-2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	7	5	0	6	9

Local educational agency: Upland Unified School District On behalf of Baldy View Elementary School	Contact name and Title: Dr. Linda Kaminski, Ed.D., Asst Superintendent of Ed. Services	Contact person's e-mail address: Linda_Kaminski@upland.k12.ca.us
Address: 390 N. Euclid Ave (City) Upland (State) CA (ZIP) 91786		Phone (and extension, if necessary): (909) 985-1864 Fax Number: (909) 949-7862
Period of request: (month/day/year) From: 7-1-12 To: 6-30-13	Local board approval date: (Required) 4-10-2012	Date of public hearing: (Required) 4-10-2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

   Topic of the waiver: Request to Remove Baldy View Elementary School from the Open Enrollment Lists

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining unit and representative(s) consulted: Upland Teachers Association – John Glenn 3/14/12
   California Schools Employers Association - Donna Castelli 3-6-12

   The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: District Advisory Committee

   Date the committee/council reviewed the waiver request: 4/18/2012

   Were there any objection(s)? No X Yes __ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 48352. For purposes of this article, the following definitions apply:

~~(a) "Low-achieving school" means any school identified by theSuperintendent pursuant to the following:~~

~~(1) Excluding the schools, and taking into account the impact ofthe criteria in paragraph (2), the Superintendent annually shallcreate a list of 1,000 schools ranked by increasing API with the sameratio of elementary, middle, and high schools as existed in decile 1in the 2008-09 school year.~~

~~(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:~~

~~(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list.~~
~~(C) Charter schools shall not be included on the list.~~
(b) "Parent" means the natural or adoptive parent or guardian of adependent child.
(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.
(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

~~a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:~~

~~(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;~~
~~(2) the list of 1,000 schools shall exclude the following:~~
~~(A) schools that are court, community, or community day schools;~~
~~(B) schools that are charter schools;~~
~~(C) schools that are closed; and~~
~~(D) schools that have fewer than 100 valid test scores.~~

~~3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and~~

~~(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Baldy View Elementary School is a Title 1 school in the Upland Unified School District. 85% of the students qualify for the free and reduce meals program. The school continues to show gains in the API index. In 1999 the school had and API of 553. Two years later in 2001 the school had an API of 692. Ten years later the school has not only surpassed the statewide target of 800, they reached an API of 813. The school has raised its API target by 260 points since the inception of the Academic Performance Index. Baldy View Elementary School was also identified as a California Distinguished School in 2006 and as a High Achieving Title 1 school in 2004 and 2010.
The number of students scoring proficient or advance has increased in the last three years on both parts of the California Standards Test.
With these measures of success it is not reasonable to conclude that Baldy View Elementary School as a "low performing" school.
Placing Baldy View Elementary on a list, when they are **not** one of the 1,000 Lowest Performing Schools in the state, negatively impacts the students, staff and community morale.
We ask that you approve the waiver request to remove Baldy View Elementary School from the Open Enrollment List.

8. Demographic Information:
Baldy View Elementary School has a student population of 689 and is located in a suburban are in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Asst. Superintendent, Education Services	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

11-5-2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	7	5	0	6	9

Local educational agency: Upland Unified School District On behalf of Upland Elementary School	Contact name and Title: Dr. Linda Kaminski, Ed.D., Asst Superintendent of Ed. Services	Contact person's e-mail address: Linda_Kaminski@upland.k12.ca.us
Address: 390 N. Euclid Ave (City) Upland (State) CA (ZIP) 91786		Phone (and extension, if necessary): (909) 985-1864 Fax Number: (909) 949-7862
Period of request: (month/day/year) From: 7-1-12 To: 6-30-13	Local board approval date: (Required) 4-10-2012	Date of public hearing: (Required) 4-10-2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

   Topic of the waiver: Request to Remove Upland Elementary School from the Open Enrollment Lists

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining unit and representative(s) consulted: Upland Teachers Association – John Glenn 3/14/12
   California Schools Employers Association - Donna Castelli 3/6/12

   The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: District Advisory Committee

   Date the committee/council reviewed the waiver request: 4/18/2012

   Were there any objection(s)? No X Yes __ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 48352. For purposes of this article, the following definitions apply:

~~(a) "Low-achieving school" means any school identified by theSuperintendent pursuant to the following:~~

~~(1) Excluding the schools, and taking into account the impact ofthe criteria in paragraph (2), the Superintendent annually shallcreate a list of 1,000 schools ranked by increasing API with the sameratio of elementary, middle, and high schools as existed in decile 1in the 2008-09 school year.~~

~~(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:~~

~~(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools. (B) Court, community, or community day schools shall not be included on the list.~~
~~(C) Charter schools shall not be included on the list.~~
(b) "Parent" means the natural or adoptive parent or guardian of adependent child.
(c) "School district of enrollment" means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.
(d) "School district of residence" means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

Title 5 CCR 4701. Identification of Open Enrollment Schools.

~~a) The State Superintendent of Public Instruction (SSPI) shall annually construct a list of 1,000 schools for the Open Enrollment Act that maintains the same ratio of elementary, middle, and high schools as existed in decile 1 of the 2009 Base Academic Performance Index (API) file and retains only "10 percent" of a local educational agency's (LEA's) schools pursuant to the following methodology:~~

~~(1) the list of 1,000 schools shall include 687 elementary schools, 165 middle schools, and 148 high schools;~~
~~(2) the list of 1,000 schools shall exclude the following:~~
~~(A) schools that are court, community, or community day schools;~~
~~(B) schools that are charter schools;~~
~~(C) schools that are closed; and~~
~~(D) schools that have fewer than 100 valid test scores.~~

~~3) an LEA shall have on the list no more than 10 percent of its total number of schools that are not closed. However, when that total number of schools is not evenly divisible by 10, the 10 percent number of the LEA's schools shall be rounded up to the next whole number; and~~

~~(4) to produce the final list of 1,000 schools, the SSPI shall apply the following process: (A) create a pool of schools: 1. for the purpose of constructing the Open Enrollment Schools List for transfer during the 2010-2011 school year, this pool shall be created by selecting all schools from the 2009 Base API file.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Upland Elementary School is a Title 1 school in the Upland Unified School District. 85% of the students qualify for the free and reduce meals program. The school continues to show gains in the API index. In 1999 the school had and API of 528. Two years later in 2001 the school had an API of 650. Ten years later the school reached an API of 797, which is 3 points shy of the state target. The school has raised its API target by 269 points since the inception of the Academic Performance Index. Upland Elementary School was also identified as a High Achieving Title 1 school in 2005
The number of students scoring proficient or advance has increased in the last three years on the Mathematics part of the California Standards Test.
With these measures of success it is not reasonable to conclude that Upland Elementary School as a "low performing" school.
Placing Upland Elementary on a list, when they are **not** one of the 1,000 Lowest Performing Schools in the state, negatively impacts the students, staff and community morale.

We ask that you approve the waiver request to remove Upland Elementary School from the Open Enrollment List**.**

8. Demographic Information:
Upland Elementary School has a student population of 537 and is located in a suburban area in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent, Ed Services	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-4

ITEM #W-04

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Covina-Valley Unified School District** to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701, to remove their school from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year. Waiver Number: 49-3-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of Covina-Valley Unified School District's waiver request for Merwin Elementary School on the 2012-13 Open Enrollment list (Attachment 2) that does not meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at: http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc). This waiver is recommended for approval on the condition that the local educational agency (LEA) granted this waiver must honor any transfer requests pursuant to the Open Enrollment Act. Granting this waiver would allow the school to have their name removed from the 2012-13 Open Enrollment List. This waiver does not affect the standing of any other school, as this waiver is specific to the individual school named in the attached waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is the third time the SBE has heard a request from an LEA that does not meet SBE streamlined waiver criteria to be removed from the 2012-13 Open Enrollment list. The SBE did not reach a majority vote on the non-streamlined waiver requests presented at the May 2012 meeting.

SUMMARY OF KEY ISSUES

The methodology used in creating the list of 1,000 lowest achieving schools, per the statute, resulted in some higher achieving schools being placed on the list while at the same time some schools with lower APIs were not included on the list. This was primarily due to the statutory provision that an LEA can have no more than 10 percent of its schools on the list.

SUMMARY OF KEY ISSUES(Cont)

Identification as a “low-achieving” school can have a significant educational, economic, and political impact on the school community. The label of “low-achieving” does not take into account the API scores for schools whose scores have risen or are maintained closer to the higher levels of achievement. The perception that the school is “low-achieving” may cause unwarranted flight from the school community and may negatively impact fiscal issues.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Los Angeles County, Covina-Valley Unified School District

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2012, to June 30, 2013

Period of recommendation: July 1, 2012, to June 30, 2013

Local board approval date(s): March 19, 2012

Public hearing held on date(s): March 19, 2012

Bargaining unit(s) consulted on date(s): California School Employees Association
Covina Unified Education Association

Public hearing advertised by (choose one or more): Notice posted at each school, District Office, District Web site

Advisory committee(s) consulted: School Site Council

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: List of Schools and Streamlined Waiver Policy Data (1 page).

Attachment 2: Covina-Valley Unified School District General Waiver Request 49-3-2012 (2 pages). (Original waiver request is signed and on file in the Waiver Office).

Schools Requesting a General Waiver from the 2012-13 Open Enrollment List

Waiver #	County District School	2011 District Growth API	2011 School API Growth*		2011 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request	Recommend for Approval (Yes/No)
49-3-2012	Los Angeles Covina-Valley Unified Merwin Elementary	789	Schoolwide Hispanic or Latino SED EL SD	776 765 756 716 712	Yes Yes Yes No No	No	No	3, 4	Year 2	Support 02/10/2012 and 03/06/2012	**Requested:** July 1, 2012 to June 30, 2013 **Recommended:** July 1, 2012 to June 30, 2013	Yes

*Only student groups that are numerically significant are included in this column.

Prepared by the California Department of Education
Revised: 06/05/2012 1:54 PM

SED – Socioeconomically Disadvantaged
EL – English Learner
SD – Students with Disabilities

49-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	4	3	6

Local educational agency: Covina-Valley Unified School District on behalf of Merwin Elementary School	Contact name and Title: Lynn Carmen Day Assistant Superintendent	Contact person's e-mail address: lcarmenday@ cvusd.k12.ca.us
Address: 519 E. Badillo Street (City) Covina (State) CA (ZIP) 91723		Phone (and extension, if necessary): 626.974.7000x2070 Fax Number: 626.974.7061
Period of request: (month/day/year) From: 7/1/2012 To: 6/30/2013	Local board approval date: (Required) March 19, 2012	Date of public hearing: (Required) March 19, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

   Topic of the waiver: Inclusion on list of low performing schools

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): CSEA approved 2/10/12 / CUEA approved 3/6/12

   Name of bargaining unit and representative(s) consulted: Shannon Medrano, President/California School Employees Association and Adam Hampton, President/Covina Unified Education Association

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* District Office/Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: School Site Council met 2/8/12 and unanimously agreed to submit the Waiver.

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

~~(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:~~

~~(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.~~

~~(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:~~

~~(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.~~

~~(B) Court, community, or community day schools shall not be included on the list.~~

~~(C) Charter schools shall not be included on the list.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Covina-Valley Unified School District is requesting the removal of Merwin Elementary form the 2012-2013 Open Enrollment – Low Achieving Schools List. The inclusion of Merwin Elementary School on this list is inappropriate because Merwin is not a low achieving school. The students of Merwin Elementary School have made remarkable academic growth in 2010-2011. Merwin Elementary School's Academic Performance Index (API) increased 20 points this past school year, and is currently 776, very close to the statewide target of 800 for a high achieving school. Every significant subgroup of students (Hispanic, Socioeconomically Disadvantaged, English Learners, and Students with Disabilities) at Merwin Elementary has either increased their API score or is already out performing the statewide average API. Covina-Valley Unified School District and the entire staff of Merwin Elementary School have been committed to providing high-quality educational experiences and closing the achievement gap for all of our student subgroups regardless of their background, condition or circumstances and the API growth of Merwin Elementary School is showing the results of that commitment.

8. Demographic Information:
Merwin Elementary School has a student population of 425 and is located in a suburb in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Catherine J. Nichols	Superintendent	March 28, 2012

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Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-5

ITEM #W-05

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Linden Unified School District** to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701, to remove **Glenwood Elementary School** from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year. Waiver Number: 22-1-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of Linden Unified School District's waiver request for Glenwood Elementary School on the 2012-13 Open Enrollment list (Attachment 2) that does not meet the criteria for the State Board of Education (SBE) Streamlined Waiver Policy (available at: http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc). This waiver is recommended for approval on the condition that the local educational agency (LEA) granted this waiver must honor any transfer requests pursuant to the Open Enrollment Act. Granting this waiver would allow the school to have their name removed from the 2012-13 Open Enrollment List. This waiver does not affect the standing of any other school, as this waiver is specific to the individual school named in the attached waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is the second time the SBE has heard this request. The SBE did not reach a majority vote on this non-streamlined waiver request when it was presented at the May 2012 meeting.

If the SBE fails to take action on this waiver request at the July 2012 meeting, the request is deemed approved for one year pursuant to *EC* Section 33052 and there will be no conditions on the approval.

SUMMARY OF KEY ISSUES

The methodology used in creating the list of 1,000 lowest achieving schools, per the statute, resulted in some higher achieving schools being placed on the list while at the same time some schools with lower APIs were not included on the list. This was primarily due to the statutory provision that an LEA can have no more than 10 percent of its schools on the list.

Identification as a “low-achieving” school can have a significant educational, economic, and political impact on the school community. The label of “low-achieving” does not take into account the API scores for schools whose scores have risen or are maintained closer to the higher levels of achievement. The perception that the school is “low-achieving” may cause unwarranted flight from the school community and may negatively impact fiscal issues.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: San Joaquin County, Linden Unified School District

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 29, 2012

Period of recommendation: July 1, 2012, to June 30, 2013

Local board approval date(s): January 18, 2012

Public hearing held on date(s): January 18, 2012

Bargaining unit(s) consulted on date(s): Association of Linden Educators/Stan Smith
Cc: San Joaquin Coordinating Council/
Jan Hastings

Public hearing advertised by (choose one or more): Notice posted at each school, United States Postal Office – Linden, CA Rinaldi’s Market, Linden, CA, and Linden Unified School District Office, Linden, CA

Advisory committee(s) consulted: Glenwood School Site Council

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: List of Schools and Streamlined Waiver Policy Data (1 page).

Attachment 2: Linden Unified School District General Waiver Request 22-1-2012 (3 pages). (Original waiver request is signed and on file in the Waiver Office).

Schools Requesting a General Waiver from the 2012-13 Open Enrollment List

Waiver #	County District School	2011 District Growth API	2011 School API Growth*		2011 API Target Met?	Met API Growth Targets (3 of last 5 yrs)	Meets SBE Waiver Policy (Yes/No)	Decile, Similar Schools Rank	Current PI Status	Position of Bargaining Unit/Date Consulted	Period of Request**	Recommend for Approval (Yes/No)
22-1-2012	San Joaquin Linden Unified Glenwood Elementary	783	Schoolwide Hispanic or Latino White SED EL	769 738 809 750 680	No Yes Yes Yes No	No	No	4, 7	Year 4	Support 12/04/2011	**Requested:** July 1, 2011 to June 29, 2012 **Recommended:** July 1, 2012 to June 30, 2013	Yes

*Only student groups that are numerically significant are included in this column.
**The CDE recommends approval of this waiver, effectively removing Glenwood Elementary from the 2012-13 Open Enrollment list for the period of July 1, 2012 to June 30, 2013 instead of the requested dates of July 1, 2011 to June 29, 2012 listed on the submitted waiver.

SED – Socioeconomically Disadvantaged
EL – English Learner

Prepared by the California Department of Education
Revised: 06/07/2012 12:12 PM

22-1-2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X

Renewal Waiver:

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	5	7	7

Local educational agency: **Linden Unified School District on Behalf of Glenwood Elementary School**	Contact name and Title: **Michael V. Gonzales Ed.D.** **Superintendant**	Contact person's e-mail address: **migonzales@sjcoe.net**
Address: **2005 N. Alpine Road** (City) **Stockton,** (State) **CA** (ZIP) **952154**		Phone (and extension, if necessary): **(209) 887 - 3894** Fax Number: **(209) 887-2250**
Period of request: (month/day/year) From: **7/1/2011** To: **6/29/2012**	Local board approval date: (Required) **January 18, 2012**	Date of public hearing: (Required) **January 18, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

Open Enrollment Act **48350 (a)**
Topic of the waiver:

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **N/A** and date of SBE Approval **N/A**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s) **December 14, 2011**

Name of bargaining unit and representative(s) consulted**:** **Association of Linden Educators/Stan Smtih**
Cc: San Joaquin Coordinating Council/Jan Hastings

The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper **X** Notice posted at each school **X** Other: *(Please specify)* **United States Post Office – Linden, CA, Rinaldi's Market, Linden, CA, and Linden Unified School District Office – Linden, CA**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: **Glenwood School Site Council – December 7, 2011**

Were there any objection(s)? No **X** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48352. For purposes of this article, the following definitions apply:
~~(a) "Low-achieving school" means any school identified by the Superintendent pursuant to the following:~~
~~(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008-09 school year.~~
~~(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:~~
~~(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.~~
~~(B) Court, community, or community day schools shall not be included on the list.~~
~~(C) Charter schools shall not be included on the list.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Glenwood Elementary School's base API for 2011 was 765. While this represents a decrease of 3 points in our overall API, Glenwood Elementary has made continued progress with our various subgroups in both API and AYP. During 2011, In the area of Mathematics, we achieved Safe Harbor in the following groups: schoolwide, Hispanic, and Socioeconomically Disadvantaged. We also experienced API increases with our Hispanic Subgroup 732 (+7), Socioeconomically Disadvantaged 745 (+15), and English Learners 712 (+7). Since 2007, Glenwood Elementary School's API has increased overall in all subgroups. We are proud of our success and continue to work toward improving student achievement.

Linden Unified School District is a small district which consists of two kindergarten through eighth grade elementary schools, one kindergarten through fourth grade school, one fifth through eighth grade school, a high school, continuation school and community day school. We have identified 68 schools in two larger, adjacent districts that have lower API scores than Glenwood and are not included on the list. Glenwood Elementary has the third highest API score of any of the San Joaquin school on this list. Being placed on this list would cause irreparable harm as our community has very few choices within the district and leaving the district has the potential to be devastating financially.

Community relations are strained as we are a small community and we are the only school within the district to be identified on this list. We have made positive gains in creating a school culture, which examines data and utilizes this data for the purpose of school improvement. Continued staff development is a high priority for our district and Glenwood Elementary. Our teachers are life long learners and continue to seek new and improved methods of meeting the needs of our students. Being placed on this list damages school morale and undermines the positive gains we have made.

8. Demographic Information:
During 2010 – 11 school year, Glenwood Elementary School had a total student enrollment of 376. Ethnically, the school population was made up of 59.8% Hispanic and 30.3% white (non Hispanic). The remainder of students represent such ethnic groups as Asian, Pacific Islander, American Indian, and African American. English learners made up 36.4% of the student population and 67% of students were designated as socioeconomically disadvantaged.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X**☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X**☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-6

ITEM #W-06

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **San Lorenzo Unified School District** to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2011−12 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority. Waiver Numbers: 4-5-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the request to waive only the requirement that one student successfully complete a course in Algebra I (or its equivalent) for the 2011−12 graduating year. The student has met other course requirements stipulated by the governing board of the school district and California *Education Code (EC)* Section 51225.3 in order to receive a high school diploma. If the student does not graduate in 2011−12, this waiver does not relieve the student of the responsibility to continue to attempt to successfully complete a course in Algebra I (or its equivalent) in 2012−13 as required by *EC* Section 51224.5.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2000, *EC* Section 51224.5 was enacted to require students to complete a course in Algebra I, as a condition of receiving a high school diploma. The Algebra I requirement applied to students who were scheduled for graduation in 2003−04. All waiver requests of this type have been granted by the SBE for students with special needs.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the San Lorenzo Unified School District (USD) provided the following documentation:

- A valid, current copy of the student's individualized education program (IEP) highlighting the areas of mathematic deficiencies and how the student's needs in mathematics were addressed.

- Selected pages from the student's IEP from three previous years showing that the student was consistently on a diploma-track, and that the IEPs were written to support the student's participation in diploma-track math courses, particularly algebra.

- The specific assistance the district provided to the student, which included supplementary aids, services, accommodations, test modifications, and supports to attain the diploma-track goal for the algebra requirement.

- A copy of the transcript for the student highlighting attempts to pass algebra and pre-algebra classes.

- An assessment summary that reports the student participated in the Standardized Testing and Reporting program and failed multiple attempts to meet graduation requirements related to the algebra requirement.

The above documentation was confidentially reviewed by a special education consultant and the district provided documentation indicating that failure to approve this waiver request will result in the student not meeting graduation requirements.

Demographic Information: The San Lorenzo USD has a student population of 12,123 and is located in a small city in Alameda County.

Authority for Waiver: *EC* Section 51224.5(b)

Period of request: July 1, 2007, to June 30, 2013

Local board approval date(s): April 19, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: San Lorenzo Unified School District - Specific Waiver Request for Algebra I Requirement (1 Page) (Original waiver request is signed and on file in the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

Waiver of Algebra I Graduation Requirements for Pupils with Disabilities

AlGR-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/
Send Original to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

CDS CODE						

Local educational agency: Arroyo High School, San Lorenzo Unified School District	Contact name and recipient of approval/denial notice: Larry Smith	Contact person's e-mail address: lsmith@slzusd.org
Address: (City) (State) (ZIP) 15701 Lorenzo Avenue, San Lorenzo, CA, 94580		Phone (and extension, if necessary): Fax number:
Period of request: (month/day/year) From: 07/01/2007 To: 06/30/2013	Local board approval date **or** SELPA signature date (required)	

LEGAL CRITERIA

1. Authority for the waiver: X Specific code section: ***EC* 56101**

56101(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under…(IDEA)… or to the compliance of a district, special education local plan area, or county office with...(IDEA)…and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

***Education Code* or *California Code of Regulations* section to be waived.**

51224.5 (a) The adopted course of study for grades 7 to 12, inclusive, shall include algebra as part of the mathematics area of study pursuant to subdivision (f) of Section 51220.

(b) Commencing with the 2003-04 school year and each year thereafter, at least one course, or a combination of the two courses, in mathematics required to be completed pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 51225.3 by pupils while in grades 9 to 12, inclusive, prior to receiving a diploma of graduation from high school, shall meet or exceed the rigor of the content standards for Algebra I, as adopted by the State Board of Education pursuant to Section 60605.

Desired outcome/rationale.

Request a waiver of the (above) Algebra I graduation requirement for one (1) pupil with disabilities, who are seniors, and are otherwise eligible to graduate in the 2012-2013 school year under current statute.

District/County/SELPA Certification – *I hereby certify that the information provided on this application is correct & complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-7

ITEM #W-07

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by three local educational agencies to waive *California Code of Regulations,* Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow four educational interpreters to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum qualifications. Waiver Number: Hemet Unified School District 15-4-2012 Imperial County Office of Education 39-4-2012 Imperial County Office of Education 40-4-2012 Shasta County Office of Education 52-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of the waiver requests for these four interpreters, with the individual conditions noted in the attached spreadsheet.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, the *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

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

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in the California *Education Code (EC)* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE website at http://www.cde.ca.gov/re/lr/wr/hottopics.asp#Educational .

Authority for Waiver: *EC* Section 33050

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waivers, Numbers, Interpreters, SBE Streamlined Waiver Policy, Period of Request, Local Board Approval, Date of Public Hearing, and New or Renewal (1 page)

Attachment 2: List of Waiver Numbers, Districts, Collective Bargaining Unit Information, Public Hearing Requirement, and Advisory Committee Information (2 pages)

Attachment 3: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page)

Attachment 4: List of Waiver Conditions (2 pages)

Attachment 5: Hemet Unified School District General Waiver Request 15-4-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Imperial County Office of Education General Waiver Request 39-4-2012 (4 pages) (Original waiver request is signed and on file in Waiver Office.)

Attachment 7: Imperial County Office of Education General Waiver Request 40-4-201 (4 pages) (Original waiver request is signed and on file in Waiver Office.)

Attachment 8: Shasta County Office of Education General Waiver Request 52-4-2012 (3 pages) (Original waiver request is signed and on file in Waiver Office.)

List of Waivers, Numbers, Interpreters, SBE Streamlined Waiver Policy, Period of Request, Local Board Approval, Date of Public Hearing, and New or Renewal

Waiver Number	LEA	Interpreter	SBE Stream-lined Waiver Policy	Period of Request	Local Board Approval Date	Date of Public Hearing	New or Renewal
15-4-2012	Hemet USD	Ginger Stewart	No	**Period of Request:** March 14, 2012, to March 14, 2013 **(from LEA)** **Period Recommended:** March 14, 2012, to June 30, 2013 **(from CDE)**	March 30, 2012	March 30, 2012	New
39-4-2012	Imperial COE	Alejandra Larios Ramirez	No	**Period of Request:** August 1, 2012, to June 30, 2013 **(from LEA)** **Period Recommended:** August 1, 2012, to June 30, 2013 **(from CDE)**	April 16, 2012	April 16, 2012	Renewal
40-4-2012	Imperial COE	Deneen Hitch	No	**Period of Request:** August 1, 2012, to June 30, 2013 **(from LEA)** **Period Recommended:** August 1, 2012, to June 30, 2013 **(from CDE)**	April 16, 2012	April 16, 2012	Renewal
52-4-2012	Shasta COE	Brian Martin	No	**Period of Request:** July 1, 2012, to June 30, 2013 **(from LEA)** **Period Recommended:** July 1, 2012, to June 30, 2013 **(from CDE)**	April 11, 2012	April 11, 2012	New

Created by the California Department of Education
May 31, 2012

List of Waiver Numbers, Districts, Collective Bargaining Unit Information, Public Hearing Requirement, and Advisory Committee Information

Waiver Number	LEA	Date Bargaining Unit Consulted	Name of Bargaining Unit and Representative	Bargaining Unit Position	Public Hearing Requirement	Advisory Committee Consulted	Date Committee Reviewed Request	Were there any objections?
15-4-2012	Hemet USD	March 5, 2012	California School Employees Association (CSEA), Chapter 104; Jackie Winton, President	Support	Notice posted at each school and at district office	District Advisory Committee (DAC)	April 23, 2012	No
39-4-2012	Imperial COE	March 7, 2012	California School Employees Association, Chapter 614; Ruby Tagaban, President .	Support	Notice in a newspaper	School Site Council	March 8, 2012	No
40-4-2012	Imperial COE	March 15, 2012	California School Employees Association, Chapter 614; Ruby Tagaban, President	Support	Notice in a newspaper	School Site Council	March 8, 2012	No

Created by the California Department of Education
May 31, 2012

52-4-2012	Shasta COE	March 21, 2012, March 26, 2012, and March 27, 2012	California School Employees Association, Chapter 642; Danial Coyne, President; Ron Smith, Past President; Joan Nevarez, Labor Representative	Support	Notice in a newspaper	Community Advisory Committee (CAC)	February 14, 2012, and April 10, 2012	No

List of Waiver Numbers, Districts, and Information Regarding Each Waiver

Waiver Number	LEA	Interpreter	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire
15-4-2012	Hemet USD	Ginger Stewart	EIPA 7/9/2011 3.7 (74%)	NA	Hired 3/14/ 2012
39-4-2012	Imperial COE	Alejandra Larios Ramirez	ESSE 9/2011 2.0 (40%) Expressive 4.0 (80%) Receptive Alejandra has passed the Receptive portion of the ESSE.	EIPA 5/2008 2.5 (50%) EIPA Pre-hire Screen 8/2010 “OK to Hire/Hire with Caution”	5/15/ 2011
40-4-2012	Imperial COE	Deneen Hitch	ESSE 9/2011 2.0 (40%) Expressive 3.5 (70%) Receptive	EIPA Pre-Hire Screen 7/20/2011 “OK to Hire/Hire with Caution”	9/12/ 2011
52-4-2012	Shasta COE	Brian Martin	EIPA Pre-hire Screen 1/21/ 2012 “OK to Hire” EIPA 3/10/2012 3/3	NA	3/16/ 2012

May 2012 Educational Interpreter Conditions

Waiver Number	LEA	Interpreter	Conditions
15-4-2012	Hemet USD	Ginger Stewart	1. The Hemet USD must provide Ms. Stewart with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2013, the Hemet USD must provide CDE with new assessment scores for Ms. Stewart. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. Ms. Stewart must demonstrate growth on the assessment in order to be considered a candidate for an educational interpreter waiver for the 2013-14 school year.
39-4-2012	Imperial COE	Alejandra Larios Ramirez	1. The Imperial COE must provide Ms. Larios Ramirez with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2013, the Imperial COE must provide CDE with new assessment scores for Ms. Larios Ramirez. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. Ms. Larios Ramirez must achieve a score of 3.0 or above on the assessment in order to be considered a candidate for an educational interpreter waiver for the 2013-14 school year.

Created by the California Department of Education
May 31, 2012

40-4-2012	Imperial COE	Deneen Hitch	1. The Imperial COE must provide Ms. Hitch with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2013, the Imperial COE must provide CDE with new assessment scores for Ms. Hitch. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. Ms. Hitch must achieve a score of 3.0 or above on the assessment in order to be considered a candidate for an educational interpreter waiver for the 2013-14 school year.
52-4-2012	Shasta COE	Brian Martin	1. The Shasta COE must provide Mr. Martin with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2013, the Shasta COE must provide CDE with new assessment scores for Mr. Martin. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. Mr. Martin must demonstrate growth on the assessment in order to be considered a candidate for an educational interpreter waiver for the 2013-14 school year.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE

Local educational agency: Hemet Unified School District	Contact name and Title: Janet Mendoza Coordinator Special Education	Contact person's e-mail address: jmendoza@hemetusd.k12.ca.us
Address: (City) (State) (ZIP) 1791 W. Acacia Ave Hemet, CA 92545		Phone (and extension, if necessary): (951) 765 5100 ex 4020 Fax Number: (951) 765 5136
Period of request: (month/day/year) From: 3/14/2012 To: 3/14/2013	Local board approval date: (Required) 3/20/12	Date of public hearing: (Required) 3/20/12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived: **5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **Ginger Stewart**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. N/A

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): California School Employees' Association (CSEA) chapter 104, March 5, 2012

   Name of bargaining unit and representative(s) consulted: Jackie Winton, CSEA President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   District Advisory Committee (DAC)

   Date the committee/council reviewed the waiver request: April 23, 2012

   Were there any objection(s)? No __X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
Hemet Unified School District has a student population of 21,333 and is located in a small city, *Hemet, CA* in Riverside County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Dr. Steven Lowder	Title: Superintendent	Date: 3/21/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Documentation and Development Plan
Classroom Sign Language Interpreter
Ginger Stewart

The following plan is intended to increase the level of sign language proficiency in order to meet the California State qualifications and waiver requirements for the following interpreter: **Ginger Stewart (Record ID: 14837)**.

Professional Development Plan

Mentorship: Ginger will be meeting bi-weekly with Janet Mendoza, Special Education Coordinator, to view the Boys Town Educational Interpreters Assessment videos. She will then videotape herself and compare her signing abilities with the interpreter on the screen. This will be done for both sign and voice to sign interpreting. Janet Mendoza is currently the Special Education Coordinator for Hemet Unified School District, previously served as Itinerant Deaf/Hard of Hearing Teacher for Riverside County Office of Education and also an Interpreter for both Riverside County Office of Education and Hemet Unified School District.

Ginger will be attending the EIPA workshops that are scheduled for March 24, 2012 and April 14, 2012 at the Riverside Conference Center in Riverside, California. These two workshops are half day workshops.

Ginger will plan to attend at least one day of the upcoming OhSoEZ National Sign Language & Interpreting Conference at the Anaheim Convention Center, July 18-21, 2012.
Depending on the outcome of Ginger's next EIPA score more training may be added in the future.

Individualized Goals (developed from the EIPA Diagnostic Center comments**)**

Goal: All content concepts are to be presented.

Objective: Ginger will analyze the entire message prior to interpreting in order to allow adequate language planning to match student's level of proficiency and comprehension.

Goal: Use Spatial Referencing
Objective: Ginger will use the appropriate spatial organization building a visual scaffold for interpretation, to include classifiers, when working with students.

Goal: Increase the amount of fingerspelling in the interpretation.

Objective: Ginger will analyze the incoming message for opportunities to incorporate fingerspelling as a key element in the development of literacy for the student.

Sign Language Interpreters' EIPA Assessment Scores

Ginger's recent EIPA score, dated 7/9/2011 was a 3.7. Ginger will schedule to take the EIPA at the next appropriate time related to her last assessment. When the scores are received Ginger will provide the scores to the district. This will be done prior to January 30, 2013.

Ginger understand that in order for her to continue in her current position with Hemet Unified School District as an Interpreter, she must continue to pursue a passing score of 4.0. Ginger is also aware that this waiver must be approved by the California Department of Education.

Janet Mendoza
Special Education Coordinator
Hemet Unified School District

Signatures:
Ginger Stewart,
Interpreter_____
Jackie Winton, CSEA
President_____
Janet Mendoza, Coordinator Special
Education_____

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE					
1	3	1	0	3	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Imperial County Office of Education	**Deborah E. Montoya** **Sr. Director, Special Education**	**dmontoya@icoe.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
1398 Sperber Rd. El Centro CA 92243	**760-312-6428** Fax Number: **760-312-6530**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **8/1/2012** To: **6/30/2013**	**April 16, 2012**	**April 16, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: __**Alejandra Larios Ramirez**_____

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **# 56-3-2011-W-13** and date of SBE Approval_ **July 14, 2011**__ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 7, 2012**

Name of bargaining unit and representative(s) consulted: **Ruby Tagaban**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
School Site Council
Date the committee/council reviewed the waiver request: **March 8, 2012**

Were there any objection(s)? No **_X_** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. Education Code or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

6. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI): EIPA Pre-Hire Screening Report
7. Date of hire: September 12, 2011
8. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a qualified (4.0 or above) interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job if certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
Imperial County Office of Education has a student population of **502** and is located in a **_rural area__** in **Imperial** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

March 6, 2012

TO: Alejandra Larios Ramirez, Educational Sign Language Interpreter position
FROM: Deborah E. Montoya, Senior Director, Special Education

RE: Educational Sign Language Interpreter Remediation Plan through June 30, 2013.

Dear Ms. Larios Ramirez,

In accordance with: Title 5. EDUCATION regulation section 3051.16 (b)(3), "By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment…". Therefore, this letter is to inform you that the ICOE will be submitting a waiver request in relation to this aforementioned Title 5 Education Code on your behalf. A state requirement of the waiver request is that a Remediation Plan be developed and included with the waiver request. A waiver, if granted, would allow you to work as an Educational Sign Language Interpreter for the 2012-2013 school year. You were hired by ICOE due to your Pre-hire Screening results ("hire with caution/ok to hire"). A 4.0 score on an acceptable sign language assessment is the state requirement, as stated above in the Title 5 Education Code, thus all Educational Sign Language Interpreters employed in the K-12 public school system must meet this requirement.

We are content that you have demonstrated growth in your skill level from your first attempt on the ESSE Taken April 2011 where you obtained a score of 2.0 expressive and 2.9 receptive, whereas your last recorded scores we have received from the ESSE taken on September 2011 (**Attachment 1**), you obtained a score of: 2.0 expressive & 4.0 receptive. Therefore the Remediation Plan below will be followed by you to assist you in meeting qualification requirements of an Educational Sign Language Interpreter in the area of expressive language.

Remediation Plan:

- The Imperial County Office of Education (ICOE) must provide CDE with your assessment scores (ESSE or EIPA); therefore, you are required to take the ESSE or EIPA exam before the end of the 2012-2013 school year. The upcoming EIPA testing dates are: May 11, 2012, June 8, 2012, September 12, 2012 and November 9, 2012. The ESSE scheduled testing dates are: March 24, 2012 and April 21, 2012. You are required to attend and take one of the exams at least one time during the 2012-2013 school year. The Special Education Department will assist you with making the arrangements to take an exam and will provide reimbursement for one exam taken during the 2012-13 school year.
- You are required to take advantage of the opportunities and resources available from ICOE to maximize your assessment score. Proof of participation in these opportunities will strengthen the waiver application request when CDE determines whether to grant or deny your waiver. Opportunities are listed below.

The ICOE is offering opportunities to support you in and to help you meet your goal of 4.0 test score on the ESSE or EIPA. ICOE is offering the following opportunities for professional growth.

- EIPA Workshops (March 24, 2012 & April 14, 2012) additional workshops will provided in the fall and spring of the 2012-2013 school year.
- Reimbursement for unit cost of Cypress College coursework (provided through video conferencing)

- Access to DVD library
- Reimbursement for one EIPA or ESSE assessment during 2012-2013 school year
- Access to newly purchased sign language vocabulary books with previously non-accessible vocabulary
- Encouragement of all interpreters to meet regularly with colleagues to work on developing their Sign language skills; ICOE to provide location
- One-to-one mentorship from a skilled (4.0 level) Educational Sign Language Interpreter for one hour one time per week in order to continue to meet your goal of obtaining a 4.0 test score on the ESSE or EIPA. A new Professional Development Plan has been written to take into account your current test scores to further guide your mentorship experience (**Attachment 2**).

It is also noted that in accordance with your previous Remediation Plan (**Attachment 3**) you attended professional growth opportunities as listed below:

- EIPA Workshops (November 12, 2011, January 14, 2012)
- Cypress College Coursework Spring 2012
- Accessed the DVD library
- Took the ESSE assessment in September 2011
- Met with Educational Sign Language Interpreter colleagues to develop Sign language skills.
- Met with one-to-one mentor (skilled 4.0 Educational Sign Language Interpreter) for 1 hour per week to work on necessary signing skills as listed on your Professional Development Plan dated September 6, 2012 (**Attachment 4**).

The ICOE expects your full cooperation in this remediation plan. A second Waiver Request for the 2012-2013 school year will be submitted for the California State Board of Education's review during the July 18-19 Board of Education meeting. Your continued employment for the 2012-2013 school year will be contingent upon CDE Board of Education approval. There is no guarantee that the CDE will grant another waiver when requested.

Should you have any questions and/or concerns please contact Lynda Schoonover, ICOE Special Education Program Manager at (760) 312-6582 or Deborah Montoya, ICOE Senior Director of Special Education/Support Services at (760) 312-6428.

Thank you in advance for your attention and cooperation in this matter. We look forward to your successful obtainment of a passing score on the ESSE or EIPA in the near future.

Ruby Pacheco- CSEA Chapter 614 President
Lynda Schoonover -ICOE Program Administrator
Employee- Alejandra Larios-Ramirez

Attachments:

1. September 2011 ESSE Scores
2. 2012-13 School Year Professional Development Plan
3. 2011-12 School Year Remediation Plan
4. 2011-12 School Year Professional Development Plan

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE					
1	3	1	0	3	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Imperial County Office of Education	**Deborah E. Montoya** **Sr. Director, Special Education**	**dmontoya@icoe.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
1398 Sperber Rd. El Centro CA 92243	**760-312-6428** Fax Number: **760-312-6530**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **8/01/2012** To: **6/30/2013**	**April 16, 2012**	**April 16, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: __**Deneen Hitch**_____

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **33-10-2011-W-11** and date of SBE Approval __**January 11, 2012**__ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 15, 2012**

Name of bargaining unit and representative(s) consulted: **Ruby Tagaban**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
School Site Council
Date the committee/council reviewed the waiver request: **March 8, 2012**

Were there any objection(s)? No **_X_** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. Education Code or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

9. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI): EIPA Pre-Hire Screening Report
10. Date of hire: September 12, 2011
11. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a qualified (4.0) or above interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job if certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
Imperial County Office of Education has a student population of **502** and is located in a **_rural area__** in **Imperial** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

March 12, 2012

TO: Deneen Hitch, Educational Sign Language Interpreter position
FROM: Deborah E. Montoya, Senior Director, Special Education

RE: Educational Sign Language Interpreter Remediation Plan through June 30, 2013.

Dear Mrs.Hitch,

In accordance with: Title 5. EDUCATION regulation section 3051.16 (b)(3), "By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment…". Therefore, this letter is to inform you that the ICOE will be submitting a waiver request in relation to this aforementioned Title 5 Education Code on your behalf. A state requirement of the waiver request is that a Remediation Plan be developed and included with the waiver request. A waiver, if granted, would allow you to work as an Educational Sign Language Interpreter for the 2012-2013 school year. You were hired by ICOE due to your Pre-hire Screening results ("hire with caution/ok to hire"). A 4.0 score on an acceptable sign language assessment is the state requirement, as stated above in the Title 5 Education Code, thus all Educational Sign Language Interpreters employed in the K-12 public school system must meet this requirement.

We have received the results of the ESSE taken by you in September 2011 where you obtained a score of 2.0 expressive and 3.5 receptive, (**Attachment 1**). Therefore the Remediation Plan below will be followed by you to assist you in meeting qualification requirements of an Educational Sign Language Interpreter in the area of receptive and expressive language.

Remediation Plan:

- The Imperial County Office of Education (ICOE) must provide CDE with your assessment scores (ESSE or EIPA); therefore, you are required to take the ESSE or EIPA exam before the end of the 2012-2013 school year. The upcoming EIPA testing dates are: May 11, 2012, June 8, 2012, September 12, 2012 and November 9, 2012. The ESSE scheduled testing dates are: March 24, 2012 and April 21, 2012. You are required to attend and take one of the exams at least one time during the 2012-2013 school year. The Special Education Department will assist you with making the arrangements to take an exam and will provide reimbursement for one exam taken during the 2012-13 school year.
- You are required to take advantage of the opportunities and resources available from ICOE to maximize your assessment score. Proof of participation in these opportunities will strengthen the waiver application request when CDE determines whether to grant or deny your waiver. Opportunities are listed below.

The ICOE is offering opportunities to support you in and to help you meet your goal of 4.0 test score on the ESSE or EIPA. ICOE is offering the following opportunities for professional growth.

- EIPA Workshops (March 24, 2012 & April 14, 2012) additional workshops will be provided in the fall and spring of the 2012-2013 school year.
- Reimbursement for unit cost of Cypress College coursework (provided through video conferencing)
- Access to DVD library
- Reimbursement for one EIPA or ESSE assessment during 2012-2013 school year
- Access to newly purchased sign language vocabulary books with previously non-accessible vocabulary
- Encouragement of all interpreters to meet regularly with colleagues to work on developing their Sign language skills; ICOE to provide location
- One-to-one mentorship from a skilled (4.0 level) Educational Sign Language Interpreter for one hour one time per week in order to continue to meet your goal of obtaining a 4.0 test score on the ESSE or EIPA. A Professional Development Plan has been written to take into account your current test scores to further guide your mentorship experience (**Attachment 2**).

The ICOE expects your full cooperation in this remediation plan. A second Waiver Request for the 2012-2013 school year will be submitted for the California State Board of Education's review during the July 18-19 Board of Education meeting. Your continued employment for the 2012-2013 school year will be contingent upon CDE Board of Education approval. There is no guarantee that the CDE will grant another waiver when requested.

Should you have any questions and/or concerns please contact Lynda Schoonover, ICOE Special Education Program Manager at (760) 312-6582 or Deborah Montoya, ICOE Senior Director of Special Education/Support Services at (760) 312-6428.

Thank you in advance for your attention and cooperation in this matter. We look forward to your successful obtainment of a passing score on the ESSE or EIPA in the near future.

_____ _____

Ruby Pacheco- CSEA Chapter 614 President Lynda Schoonover -ICOE Program Administrator

Employee- Deneen Hitch

Attachments:

1. September 2011 ESSE Scores
2. 2012-13 School Year Professional Development Plan

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	**ymarley@shastacoe.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
"Attention: Yvette Marley" **1644 Magnolia Avenue Redding, CA 96001**	**(530) 242-2298** Fax Number: **(530) 222-8582**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2012** To: **June 30, 2013**	***"4-11-12"***	**April 11, 2012**

LEGAL CRITERIA

1 1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California*

2 *Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**

Name of Interpreter: **Brian Martin**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **1st time waiver** and date of SBE Approval_____

Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 21, 2012; March 26, 2012; March 27, 2012**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter 642 President: Daniel Coyne, Past President: Ron Smith, Labor Representative: Joan Nevarez**

The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

Comments (if appropriate): **See Attached "Remediation Plan" signed by Daniel Coyne, CSEA Chapter 642 President**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request: **February 14, 2012; April 10, 2012**

Were there any objection(s)? No **X** Yes ___ (*If there were objections please specify)* **The waiver requests were presented twice to the CAC as the issue was not listed on the February 14, 2012 agenda. The "Committee Consent Sheets" from February 14, 2012 and April 10, 2012 as well as the April 10, 2012 agenda have been submitted for review.**

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
Shasta COE has a student population of **220 students with special needs** and is located in a **rural area** in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"SCOE Superintendent"***	***"4-11-12"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Brian Martin

From: Allison Rideout

RE: Remediation Plan to meet Educational Interpreter Regulations
(see CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 21, 2012

By July 1, 2009, the Title 5 EDUCATION regulation 5CCR3051.16 (b) (3) required all educational interpreters to have achieved RID certification, or an equivalent certification, in order to interpret in the K-12 classroom. In lieu of certification or equivalence, a score of 4.0 or above in the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE) is also accepted by the California Department of Education (CDE) as the minimum qualification standard. Your assessment history consists of an EIPA pre-hire screening overall recommendation of "OK to Hire" received on January 21, 2012. The results of your full EIPA assessment on March 10, 2012 are pending. As a result, currently you are out of compliance with the state regulations required for educational interpreters that became effective July 1, 2009.

In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to) access to a Lead Educational Interpreter (LEI) who is RID-certified with both NIC and Ed:K-12 certifications. The LEI is providing professional development training in the form of weekly one-on-one mentoring sessions within the K-12 classroom setting, as well as monthly Educational Interpreter meetings (conducted in sign language) where resources, training opportunities, and knowledge specific to the SCOE educational interpreting environment are presented. Additionally, an Educational Interpreter webpage housing a variety of support links to ASL on-line dictionaries, interpreter resources, professional organizations, and professional development opportunities has been set up and is accessible to each SCOE educational interpreter.

The SCOE LEI has also coordinated with the Shasta County SELPA, Trix Bruce, and the Boys' Town Research Hospital to offer you a variety of tuition-paid professional development opportunities in the form of workshops and EIPA video conferences to help you achieve certification as a SCOE educational interpreter.

Additionally, the Shasta County SELPA working with Shasta College and the Economic Workforce Development office, has, with financial support from other area agencies, initiated and set up the ***SELPA: Interpreter Professional Development Lab*** in order to give access to an extensive ASL/Interpreting Library to the SCOE educational interpreters. Offering these local and distance professional development opportunities and continued access to a Lead Educational Interpreter is providing approximately 42 hours of training during the 2011-12 school year to assist you in attaining the CDE's certification requirement.

This letter is to inform you that SCOE is in the process of applying for a waiver on your behalf with the CDE. If a waiver is granted by the CDE it will only remain valid until June 30, 2013. Therefore you must participate in these SCOE-offered professional development opportunities, and continue to demonstrate interpreter skill growth in your assessment. Successfully meeting the conditions in this remediation plan is vital to your first-time waiver being considered for approval by the CDE and the State Board of Education (SBE). Even if your first-time waiver is approved, it will expire at the end of the 2012-13 school year. Please note that failure to meet the CDE's minimum qualification standard of an approved assessment score of 4.0 or higher by June 30, 2013 may result in your dismissal from SCOE employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Daniel P. Coyne"	***"Yvette Marley"***	***"Jodie VanOrnum"***	***"Brian Martin"***
CSEA Representative	Yvette Marley	Jodie VanOrnum	Brian Martin
Chapter 642	SCOE Lead Ed Interpreter	SCOE Special Ed Director	Employee
	RID Certified		
	NIC & Ed: K-1		

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-8

ITEM #W-08

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by three local educational agencies to waive *California Code of Regulations,* Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students. Waiver Number: Mariposa County Office of Education 47-3-2012 Shasta Union High School District 43-3-2012 Upland Unified School District 39-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the State Board of Education (SBE) approve the request from three local educational agencies (LEAs) to provide extended school year (ESY) services for fewer than 20 days with the condition that 80 hours or more of instruction be provided. (A minimum of 76 hours of instruction may be provided if a holiday is included.) Also, special education and related services offered during the extended year period must be comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations,* Title 5, (5 *CCR*), Section 3043(d).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In the past, the SBE approved waivers to allow school districts to provide the required minimum amount of instruction in fewer days during the ESY for special education students.

Extended school year is the term for the education of special education students "between the close of one academic year and the beginning of the next" similar to a summer school. It must be provided for each individual with exceptional needs whose individualized education program (IEP) requires it. Local educational agencies may request a waiver to provide an ESY program for fewer days than the traditional model.

SUMMARY OF KEY ISSUES

The Mariposa County Office of Education proposes to provide ESY services utilizing a 16-day model over a four-week period of five hours of instruction per day. The longer school day better aligns with the regular school year providing more consistency for the students served.

The Shasta Union High School District (SD) proposes to provide ESY services utilizing a 15-day model over a three-week period of five and one half hours of instruction per day. Students benefit from the increased number of minutes in an instructional setting and, for medically fragile students, from the reduced overall time spent traveling in extreme summer heat.

The Upland Unified SD proposes to renew its previous waiver and continue to provide ESY services utilizing a 16-day model of five hours of instruction per day, for a period ending May 2014, to align with the general education summer school calendar. Having both programs on the same calendar enhances collaboration and mainstreaming of students with disabilities with general education peers.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Summary Table (1 page)

Attachment 2: Mariposa County Office of Education General Waiver Request 47-3-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Shasta Union High School District General Waiver Request 43-3-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Upland Unified School District General Waiver Request 39-3-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Created by the California Department of Education
May 9, 2012

Waiver Number	Local Educational Agency	Period of Request	Demographics	Local Board Approval Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee or School Site Council Consulted – Date	Position of committee/ council
47-3-2012	Mariposa County Office of Education	Period of Request 07/09/2012 – 08/02/2012 Period Recommended 07/09/2012 – 08/02/2012	Located in various rural mountainous areas in Mariposa County, Mariposa County Office of Education serves a student population of 45	03/15/2012	Mariposa County Teachers Ass'n 02/29/2012	Support	School Site Council 02/29/2012	No objections
43-3-2012	Shasta Union High School District	Period of Request 06/11/2012 – 06/29/2012 Period Recommended 06/11/2012 – 06/29/2012	Located in a small city in Shasta County w/student population of 5,000	03/13/2012	Shasta Secondary Education Association 02/8/2012	Support	Shasta Union High School District Board of Trustees on 03/12/2012	No objections
39-3-2012	Upland Unified School District	Period of Request 06/01/2012 – 05/31/2014 Period Recommended 06/01/2012 – 05/29/2012	Located in a small city in San Bernardino County w/student population of 11,927	03/13/2012	Upland Teachers' Ass'n 02/16/2012 CSEA 02/16/2012	Neutral Support	District English Learner Advisory Council and District Advisory Council 02/22/2012	No objections

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

First Time Waiver: ___

Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	1	0	5	3	0	8

Local educational agency:	Contact name and Title:	Contact person's e-mail :
Mariposa County Office of Education	Joe Borges Director of Special Education	jborges@mariposa.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
5082 Old Highway North /PO Box 8	Mariposa	CA	95338	(209) 742-0230 Fax Number: (209) 742-0237

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 9, 2012 To: August 2, 2012	March 15, 2012	March 15, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 3043 Circle One: *EC* or *CCR*

   Topic of the waiver: Extended School Year

2. If this is a renewal of a previously approved waiver, please list:
   Waiver Number: 16-4-2011-W-15
   Date of SBE Approval: July 14, 2011
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No OR **X** Yes
   If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 29, 2012

   Name of bargaining unit and representative(s) consulted:
   Mariposa County Teachers Association, Georgia Gallager, President

   The position(s) of the bargaining unit(s): __ Neutral _**X**_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __**X**_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   School Site Council
   Date the committee/council reviewed the waiver request: February 29, 2012

   Were there any objection(s)? No _**X**_ Yes ____ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
5 CCR 3043. Extended School Year.Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such a program and includes extended school year in the individualized education program pursuant to subsection (f).

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Due to the current fiscal crisis in California, Mariposa County Office of Education proposes to provide Extended School Year (ESY) services to identified special education students utilizing a sixteen (16) day, (5) hour of instructional model rather than the traditional model of (20) day with (4) hours of instruction. Students will receive the same instructional minutes. The longer school day of ESY will better align with the regular school year providing more consistency for the students served. Fewer ESY days will result in savings in transportation, utilities, janitorial, food service, administration, and clerical costs and match the summer operational calendar established at the district.

8. Demographic Information:
Mariposa County Office of Education has a student population of 47 and is located in various rural mountainous areas in Mariposa County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **No** ☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

First Time Waiver: ___

Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						

Local educational agency: Shasta Union High School District	Contact name and Title: Tim Calkins Director of Special Education	Contact person's e-mail address: tcalkins@suhsd.net
Address: (City) (State) (ZIP) 2200 Eureka Way Suite B, Redding CA 96001		Phone (and extension, if necessary): 530-241-3261 Fax Number: 530-245-2631
Period of request: (month/day/year) From 6/11/12 to 6/29/12	Local board approval date: (Required) 3-13-12	Date of public hearing: (Required) 3-13-12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

   Topic of the waiver: CCR, Title 5, Section 3043 (g)(1); and 2)

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 2-8-12

   Name of bargaining unit and representative(s) consulted: Tom Roberts

   The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper X Notice posted at each school ___ Other: *(Please specify) Name of district and/or regional provider*

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Shasta Union High School District Board of Trustees
   Date the committee/council reviewed the waiver request: 3-12-12

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

    Requested by Shasta Union High School District to waive California Code of Regulation (CCR), Title 5, Section 3043 (d) which requires a minimum of 20 school days of attendance for an extended school year for special education students.

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

    Shasta Union High School District: 1. Provide within 15 days of increased minutes, the time equal to the normally provided 20 days as required by **CCR, Title 5, Section 3043 (g) (1); and 2)** only 15 days of special education average daily attendance (ADA) may be claimed for this serviced.

Shasta Union High School District is requesting to reduce the number of ESY days from 20 days at 4 hours per day to 15 days at 5 hours per day. Shasta County has many geographical challenges that require students to spend significant amounts of time on school buses. The county is also well known for its extreme heat during the summer season with temperatures often reaching triple digits. Reducing the number of days students spend traveling and increasing the number of hours spent in instructional settings is beneficial twofold: 1. medically fragile students will spend less overall time being transported. 2. students will receive increased instructional minutes.

12. Demographic Information:
    (*District/school/program)* Shasta Union High School District has a student population of 5000 and is located in a *small city (Redding)* in Shasta County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

First Time Waiver: ___

Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	7	5	0	6	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Upland Unified School District	Linda Kaminski, Ed.D. Assistant Superintendent, Ed. Services	linda_kaminski@upland.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
390 N. Euclid Ave.	Upland	CA	91786	(909) 985-1864, x269 Fax Number: (909) 949-7862

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **06/01/12** To: **05/31/14**	**March 13, 2012**	**March 13, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or ***CCR***✓

Topic of the waiver: Upland USD is requesting to renew the waiver of the Extended Year Program (EYP) requirement of 20-days to align it to the general education summer school program

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **18-2-2009-W-28** and date of SBE Approval **05/07/2009**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _✓_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Upland Teachers' Association and CSEA / February 16, 2012

Name of bargaining unit and representative(s) consulted: John Glenn, UTA President and Donna Castelli, CSEA President

The position(s) of the bargaining unit(s): _X_ Neutral X Support __ Oppose (*Please specify why*)
UTA CSEA

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X__ Notice in a newspaper ___ Notice posted at each school _X__ Other: *(Please specify)* Three public places within the District

13. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

DELAC (District English Learner Advisory Council) and DAC (District Advisory Council)

Date the committee/council reviewed the waiver request: February 22, 2012

Were there any objection(s)? No _✓__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

14. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

    CCR, Title 5, Section 3043
    (d) An extended year program shall be provided for a minimum of 20 instructional days, including holidays.

15. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

    Upland Unified School District is requesting to renew this waiver to allow the Extended Year Program (EYP) for special educational students to align with the general education summer school. Having both programs on the same calendar and schedule will enhance collaboration and mainstreaming, ease transportation and scheduling for parents with students in both programs, and streamline district operations such as transportation and food services. The district will continue to provide 80-hours of summer EYP but over a 16-day period.

16. Demographic Information:
    (*District/school/program)Upland Unified School District* has a student population of 11,927 and is located in a small city - Upland in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Assistant Superintendent, Ed. Services**	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-9

ITEM #W-09

CALIFORNIA STATE BOARD OF EDUCATION

JULY AGENDA

☒ **General Waiver**

SUBJECT	
Request by eight local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.	☒ **Action**
Waiver Numbers: Chaffey Joint Union High School District 19-4-2012 Etiwanda Elementary School District 2-4-2012 Hope Elementary School District 50-3-2012 Jefferson Union High School District 38-3-2012 Live Oak Elementary School District 35-3-2012 Oakland Unified School District 48-3-2012 Terra Bella Union Elementary School District 21-3-2012 Washington Colony Elementary School District 26-4-2012	☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all waiver requests since the deadline for submission of the State Testing Apportionment Information Reports was added to the *California Code of Regulations (CCR)*, and the SBE Waiver Policy 08-#: State Testing Apportionment Informational Report Deadline (available at http://www.cde.ca.gov/re/lr/wr/documents/statetesting.doc).

One of the local educational agencies (LEAs) meets the criteria for the SBE Streamlined Waiver Policy (available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc), achieving a Growth Academic Performance Index (API) score of 800 or higher in the current cycle. See last column on Attachment 1.

SUMMARY OF KEY ISSUES

The regulations for the State Testing Apportionment Information Report were amended in 2005 to include an annual deadline of December 31 for the return of the

Apportionment Information Report for prior year testing for the California English Language Development Test (CELDT), the California High School Exit Examination (CAHSEE), and the Standardized Testing and Reporting (STAR) Program. The California Department of Education (CDE) sent letters in September 2005 announcing the new deadline in regulations to every LEA. This deadline was enacted to speed the process of final reimbursement of testing costs to the LEAs.

The LEAs filing for this waiver request missed the 2009-10 and 2010-11 fiscal year deadlines for requesting reimbursement due to budget cuts, reduction in staff, changes in administrative staff, and misfiled documents. Staff verified that these LEAs needed the waiver and that each LEA had submitted its report after the deadline.

These LEAs are now all aware of this important change in the timeline and understand that they must submit their reports to the Assessment Development and Administration Division for reimbursement. Therefore, the CDE recommends the approval of these waiver requests as required by regulation prior to final reimbursement.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

Period of request: December 31, 2010, to July 19, 2012

Local board approval date(s): Various dates

Public hearing held on date(s): Various dates

Bargaining unit(s) consulted on date(s): Various dates

Name of bargaining unit/representative(s) consulted: Various

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ Web site, district office,

library, or board agenda

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: Various dates

FISCAL ANALYSIS (AS APPROPRIATE)

If the waivers are approved, these LEAs will be reimbursed for the costs of the STAR, CAHSEE, or the CELDT for the 2009-10 and 2010–11 school years. Total costs are indicated on Attachment 1.

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline - July 2012 (3 Pages)

Attachment 2: Chaffey Joint Union High School District Waiver Request 19-4-2012 (1 Page) (Original waiver request is signed and on file at the Waiver Office)

Attachment 3: Etiwanda Elementary School District Waiver Request 2-4-2012 (1 Page) (Original waiver request is signed and on file in Waiver Office)

Attachment 4: Hope Elementary School District Waiver Request 50-3-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Attachment 5: Jefferson Union High School District Waiver Request 38-3-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Attachment 6: Live Oak Elementary School District Waiver Request 35-3-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Attachment 7: Oakland Unified School District Waiver Request 48-3-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Attachment 8: Terra Bella Union Elementary School District Waiver Request 21-3-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Attachment 9: Washington Colony Elementary School District Waiver Request 26-4-2012 (1 Page) (Original waiver request is signed and on file in the Waiver Office)

Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline – July 2012

Local Educational Agency	Waiver Number	Period of Request	Test Report Missing	Report Submitted	Fiscal Year	Reimbursement Amount	Union Position	Streamlined Waiver Policy - API
Chaffey Joint Union High School District	19-4-2012	**Requested** 12-31-2011 to 4-17-2012 **Recommended** 12-31-2011 to 7-19-2012	California English Language Development Test (CELDT)	No	2010-11	$18,250.00	Support	No
Etiwanda Elementary School District	2-4-2012	**Recommended** 12-31-2011 to 7-19-2012	CELDT	Yes	2010–11	$5,340.00	Support	Yes
Hope Elementary School District	50-3-2012	**Requested** 1-1-2012 to 3-28-2012 **Recommended** 12-31-2011 to 7-19-2012	CELDT	Yes	2010–11	$180.00	Support	No
Hope Elementary School District	50-3-2012	**Requested** 1-1-2012 to 3-28-2012 **Recommended** 12-31-2011 to 7-19-2012	Standardized Testing and Reporting (STAR)	Yes	2010–11	$295.56	Support	No

Local Educational Agency	Waiver Number	Period of Request	Test Report Missing	Report Submitted	Fiscal Year	Reimbursement Amount	Union Position	Streamlined Waiver Policy - API
Jefferson Union High School District	38-3-2012	**Requested** 7-1-2010 to 5-1-2011 **Recommended** 12-31-2011 to 7-19-2012	CELDT	Yes	2010–11	$3,115.00	Support	No
Jefferson Union High School District	38-3-2012	**Requested** 7-1-2010 to 5-1-2011 **Recommended** 12-31-2011 to 7-19-2012	California High School Exit Examination (CAHSEE)	Yes	2010–11	$6,047.84	Support	No
Jefferson Union High School District	38-3-2012	**Requested** 7-1-2010 to 5-1-2011 **Recommended** 12-31-2011 to 7-19-2012	STAR	Yes	2010–11	$9,392.30	Support	No
Live Oak Elementary School District	35-3-2012	**Requested** 12-31-2010 to 7-19-2012 **Recommended** 12-31-2010 to 7-19-2012	STAR	Yes	2009–10	$3,942.44	Support	No

Local Educational Agency	Waiver Number	Period of Request	Test Report Missing	Report Submitted	Fiscal Year	Reimbursement Amount	Union Position	Streamlined Waiver Policy - API
Oakland Unified School District	48-3-2012	**Requested** 1-1-2010 to 12-31-2011 **Recommended** 12-31-2011 to 7-19-2012	CAHSEE	Yes	2010–11	$18,319.96	Support	No
Terra Bella Union Elementary School District	21-3-2012	**Requested** 12-31-2011 to 7-18-2012 **Recommended** 12-31-2011 to 7-19-2012	CELDT	No	2010-11	$3,155.00	Support	No
Washington Colony Elementary School District	26-4-2012	**Requested** 12-1-2012 to 12-31-2012 **Recommended** 12-31-2011 to 7-19-2012	STAR	Yes	2010–11	$849.92	Support	No

19-4-2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
copy in **Word** and Waiver Office, California Department of Education
waiver@cde.ca.gov 1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic back-up material to:

CD CODE						
3	6	6	7	6	5	2

Local educational agency: Chaffey Joint Union High School District	Contact name and recipient of approval/denial notice: Jeffrey Ellingsen	Contact person's e-mail address: Jeff_ellingen@cjuhsd.net
Address: (City) (ZIP) 211 W. Fifth St. Ontario CA		Phone (and extension, if necessary): 909-988-2565 Fax number: 909-460-5607
Period of request: From 12/31/11 to 4/17/12	Local board approval date: (Required) 4/17/2012	Date of public hearing: (Required) 4/17/2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**x**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _x__ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
Bargaining unit(s) consulted on date(s): 3-28-2012
Name of bargaining unit and representative(s) consulted: Jan Thornhill Associated Chaffey Teachers Mike Weaver California School Employee Association
The position(s) of the bargaining unit(s): Neutral x Support Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
How was the required public hearing advertised?
__ Notice in a newspaper __x_ Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.)
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

2-4-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Word and
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	6	7	7	0	2

Local educational agency: ETIWANDA SCHOOL DISTRICT	Contact name and recipient of approval/denial notice: SYLVIA KORDICH	Contact person's e-mail address: sylvia_kordich@etiwanda.org
Address: (City) (ZIP) 6061 East Avenue Etiwanda, CA 91739		Phone (and extension, if necessary): 909-803-3126 Fax number: 909-803-3025
Period of request: From to	Local board approval date: (Required) March 8, 2012	Date of public hearing: (Required) March 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one): __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**X**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X__ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): February 27, 2012
   Name of bargaining unit and representative(s) consulted: Sonia Scott
   The position(s) of the bargaining unit(s): Neutral X Support Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* 3 public locations within District.

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) *Mistake by the Administrative Assistant / Instruction. Filed STAR Apportionment report, but missed the CELDT Apportionment Report.*
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Shawn Judson, Ed.D. Superintendent	Date: March 8, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

50-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

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Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	4	4

Local educational agency: **HOPE SCHOOL DISTRICT**	Contact name and recipient of approval/denial notice: **MAIRA MARTINEZ**	Contact person's e-mail address: **hopeschool@ocsnet.ne**
Address: (City) (ZIP) **613 W. TEAPOT DOME AVE. PORTERVILLE 93257**		Phone (and extension, if necessary): **(559) 784-1064** Fax number: **(559) 784-1905**
Period of request: From **01/01/12** to **03/28/12**	Local board approval date: (Required) **03/07/12**	Date of public hearing: (Required) **03/07/12**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   X STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   X CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No X Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): **03/07/12**
   Name of bargaining unit and representative(s) consulted: **HOPE ELEM. TEACHERS ASSOCIATION GEORGIA GOODE**
   The position(s) of the bargaining unit(s): ___ Neutral **X** Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   __ Notice in a newspaper **X** Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.)
   DOCUMENTS WILL BE FORWARDED TO APPROPRIATE STAFF MEMBER IN A TIMELY MANNER
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.
   ADMIN. ASST. IS TO REVIEW ALL INCOMING MAIL & DIRECT TO APPROPRIATE DEPARTMENT

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: **DEBORAH MCCASKILL**	Title: **SUPERINTENDENT/PRINCIPAL**	Date: **03/27/12**

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

50-3-2012

38-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

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Sacramento, CA 95814

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CD CODE						
4	1	6	8	9	2	4

Local educational agency: Jefferson Union High School District	Contact name and recipient of approval/denial notice: Martha Meade	Contact person's e-mail address: mmeade@juhsd.net
Address: (City) (ZIP) 699 Serramonte Blvd., Suite 100 Daly City 94015		Phone (and extension, if necessary): 650 550-7947 Fax number: 650 550-7888
Period of request: From July 2010 to May 2011	Local board approval date: (Required) March 20, 2012	Date of public hearing: (Required) March 20, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   _**X** STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   _**x**_ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   x CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X__ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): March 13, 2012
   Name of bargaining unit and representative(s) consulted: AFT Local #1481, Deborah Jacobs-Levine, President
   The position(s) of the bargaining unit(s): ___ Neutral _**X**__ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   __ Notice in a newspaper _X__ Notice posted at each school _X__ Other: (Daly City & Pacifica Public Libraries & City Halls)

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) See attached page for answers to #4 & #5.
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Martha Meade Associate Superintendent-Education	Date: March 13, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

35-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

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1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	4	6	9	7	6	5

Local educational agency: Live Oak Elementary School District	Contact name and recipient of approval/denial notice: Mary Sauter	Contact person's e-mail address:msauter@santacruz.k12.ca.us
Address: (City) (ZIP) 984-1 Bostwick Lane Santa Cruz CA 95062		Phone (and extension, if necessary): (831) 475-0767 Fax number: (831) 475-2638
Period of request: From 12/31/10 7/19/12	Local board approval date: (Required) January 17, 2012	Date of public hearing: (Required) January 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one): _**x**_ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No __x_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): January 17, 2012
   Name of bargaining unit and representative(s) consulted: Victoria Edgell, Vice President, Live Oak Elementary Teacher's Association
   The position(s) of the bargaining unit(s): ___ Neutral __x_ Support ___ Oppose (*Please specify why*)

3. **Public hearing requirement:** A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   __ Notice in a newspaper x Notice posted at each school x Other: *(Please specify)*Library, District Office, Newspaper office

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). Due to recent changes in responsibilities and the winter holiday, there was a misunderstanding in procedure and the deadline was missed.
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. Guidelines and procedures have been documented and put into a working binder for current and future coordinators to follow so that the deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 3/13/2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

48-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

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Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	1	6	1	2	5	9

Local educational agency: Oakland Unified School District	Contact name and recipient of approval/denial notice: Tony Smith	Contact person's e-mail address:Tony.smith@ousd.k12.ca.us
Address: 1025 Second Avenue, Room 301 (City) Oakland (ZIP) 94606		Phone (and extension, if necessary): 510-879-8200 Fax number: 510-879-8800
Period of request: From 2010 to 2011	Local board approval date: (Required) 3/14/12	Date of public hearing: (Required) 3/14/12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   _**X**_ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _**X** Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): 03/09/12
   Name of bargaining unit and representative(s) consulted: United Administrators of Oakland (UAOS)/Jo Anna Lougin
   The position(s) of the bargaining unit(s): Neutral **X** Support Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   _**X**_ Notice in a newspaper ___ Notice posted at each school __ Other: *(Please specify)* District Web site

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.)
   OUSD's CAHSEE Apportionment 2010-11 Report form was forwarded from the CDE to the Superintendent's Office. The office in turn forwarded the apportionment to a third party, but was not signed by Superintendent.

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.
   Institute a 5-step process to ensure the CAHSEE Apportionment report is submitted to the CDE on time:
   1. By 11/15, inform Superintendent's Office to be on alert for apportionment's arrival.
   2. By 11/20, check-in with Superintendent's Office for arrival of apportionment.
   3. If the CAHSEE Apportionment Report has not arrived at the Superintendent's Office by 11/25, CAHSEE Coordinator will contact CDE to have it faxed directly to the CAHSEE Coordinator.
   4. By 12/1, ensure Superintendent has approved and signed.
   5. CAHSEE Coordinator mails back to the CDE no later than 12/31.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 3/22/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:

48-3-2012

Deputy (*type or print*):	Deputy Signature:	Date:

21-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

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Sacramento, CA 95814

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CD CODE						
5	4	7	2	1	9	9

Local educational agency: Terra Bella Union Elementary School District	Contact name and recipient of approval/denial notice: Frank H. Betry	Contact person's e-mail address: fhbetry@tbeusd.org
Address: (City) (ZIP) 9121 Road 240 Terra Bella 93270		Phone (and extension, if necessary): (559) 535-4457 x1118 Fax number: (559) 535-0314
Period of request: From 12/31/11 to 7/18/12	Local board approval date: (Required) March 8, 2012	Date of public hearing: (Required) March 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _x_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No ___ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
Bargaining unit(s) consulted on date(s): 3-1-12 Tony Robison, California School Employee Association President
Name of bargaining unit and representative(s) consulted: Jack Berry, Terra Bella Teacher's Group President
The position(s) of the bargaining unit(s): Neutral x Support Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
How was the required public hearing advertised?
Notice in a newspaper x Notice posted at each school Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) The District never received the Apportionment Information Report Certification. The District would like to receive their CELDT Testing Apportionment
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:

21-3-2012

Deputy (*type or print*):	Deputy Signature:	Date:

26-4-2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

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Sacramento, CA 95814

Send electronic
back-up material to: waiver@cde.ca.gov

CD CODE						
1	0	6	2	5	1	3

Local educational agency: Washington Colony Elementary School District	Contact name and recipient of approval/denial notice: Craig Bowden (cbowden@washingtoncolony.k12.ca.us)	Contact person's e-mail address: cbowden@ washingtoncolony.k12.ca.us
Address: 130 E. Lincoln Ave (City) Fresno (ZIP) 93706		Phone (and extension, if necessary): 559-233-0706 Fax number: 559-233-9583
Period of request: From December, 2012 to December, 2012	Local board approval date: (Required) April 10, 2012	Date of public hearing: (Required) April 10, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   _**X**_ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): 4/10/2012
   Name of bargaining unit and representative(s) consulted: Washington Colony Teachers Association; Joanne Sweet and Kim Davis, Washington Colony Teachers Association Representatives
   The position(s) of the bargaining unit(s): ___ Neutral _X_ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   __ Notice in a newspaper ___ Notice posted at each school __X_ Other: *(Please specify)* Posted at school site and in 3 public places in district boundaries

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) The report was placed in a stack of paperwork and was discovered after the December 31, 2011, submission deadline
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. A reminder has been placed in the STAR folder as well as on the calendar to ensure prompt submission in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 16, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-10

ITEM #W-10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by three districts, under the authority of California *Education Code* Section 33050, to waive portions of *Education Code* sections 48660 and 48916.1(d) relating to the allowable grade spans for community day schools and/or *Education Code* Section 48661 relating to the colocation of a community day school with other types of schools. Waiver Numbers: Calaveras Unified School District 25-4-2012 Firebaugh-Las Deltas Unified School District 20-3-2012 Hacienda La Puente Unified School District 45-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval that the grade span limitations for the following community day schools (CDS) be waived subject to the conditions stated in the findings below:

1. California *Education Code (EC)* Section 33051(b) will only apply to the request by the Calaveras Unified School District (Waiver Number 25-4-2012). This district will not need to reapply in order to continue the waiver past the period of the current request.

2. Firebaugh-Las Deltas Joint Unified School District is requesting a renewal waiver (Waiver Number 20-3-2012). They have had no negative interactions in the past year.

3. Hacienda La Puente Unified School District be approved to locate the CDS on the same site as the Valley Continuation High School and Puente Hills School Independent Study complex (Waiver Number 45-3-2012).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved previous waiver requests to expand the allowable grade span for a CDS to best serve its students when it was not feasible for the district to operate two separate schools. The SBE has also approved several similar requests in the past to allow the colocation of a CDS with another school when the CDS could not be located separately and the district has been able to provide for the separation of students from the other schools.

SUMMARY OF KEY ISSUES

The *EC* sections 48660 and 48916.1(d) provide, respectively, for the allowable grade spans of CDSs and educational services for expelled students. The *EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion.

The *EC* Section 48661(a) states that a CDS shall not be situated on the same site as a comprehensive elementary, middle, or high school, continuation high school, or an opportunity school.

The *EC* Section 48660 authorizes districts to establish a CDS with the same grade span as any individual middle school operated by the district. Some districts, while not using the middle school model for their traditional schools, find the middle school model is appropriate for a CDS but need a waiver in order to do so.

Given the extremely challenging fiscal environment presently facing all California schools, some districts are finding that they do not anticipate having sufficient enrollment to make it fiscally feasible to operate two CDSs, one for students up to grade six, and a second for grades seven and above. At the same time, they recognize their responsibility to ensure that educational placements are available for expelled and other high-risk students. In some cases, two existing schools are collapsed into one. In other cases, the grade span of an existing school is expanded to include students who might previously have been served by another neighboring district.

Additionally, it is difficult to predict when and if a student in any specific grade level will need to be served in a CDS. At no time do these districts expect more than a small number of students to be enrolled. This means that at any given time, all of the students might be in elementary grades, middle grades, or any combination of these grades—just as at any time it is equally possible that no student in any one of these grade spans might be enrolled.

In order to ensure that students receive adequate academic support despite the wider span of grades in the school, districts have committed to provide grade level appropriate mentor teacher support to CDS teachers who are teaching beyond their normal grade spans.

Current financial difficulties may preclude a district from locating its CDS at a fully separate site. When colocation with another school is deemed necessary, sites are selected as providing the greatest possible separation from traditional school classrooms and students. The *EC* Section 48661(a)(1) authorizes a small school district with 2,500 or fewer students to waive the separation requirement based on an annual certification by at least two-thirds of the local board that separate alternative facilities are not available. The waiver number 45-3-2012, if approved, would allow the Hacienda La Puente Unified School District, with 20,735 students, the same local determination option as a smaller district. In this case, the board approved the waiver request on a five to zero vote. Separation of the students on the shared campus is achieved through combinations of physical barriers, different scheduling of and location of arrival,

departure, and breaks, different restrooms, designation of a “No Student Area” between the schools, and use of campus monitors.

While the School Employees International Union supports the Hacienda La Puente waiver request, both the Hacienda La Puente Teachers Association and California School Employees Association are on record in opposition. The Principal for all three of the involved schools in the colocation reported that the concerns of these two bargaining units reflect past limited administrative oversight that was addressed by now having a full-time on-site administrator, and concerns about discipline within each school that were addressed by providing a series of professional development for staff and the return of a more experienced and effective CDS instructor.

Demographic Information: See Attachment 1.

Authority for Waiver: *EC* Section 33050

Period of request: See Attachment 1.

Local board approval date(s): See Attachment 1.

Public hearing held on date(s): See Attachment 1.

Bargaining unit(s) consulted on date(s): See Attachment 1.

Name of bargaining unit/representative(s) consulted: See Attachment 1.

Position of bargaining unit(s) (choose only one): See Attachment 1.
☐ Neutral ☐ Support ☐ Oppose:

Advisory committee(s) consulted: See Attachment 1.

Objections raised (choose one): See Attachment 1.
☐ None ☐ Objections are as follows:

Date(s) consulted: See Attachment 1.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page)

Attachment 2: Calaveras Unified School District General Waiver Request (2 pages) (Original Waiver request is signed and on file in the Waiver Office.)

Attachment 3: Firebaugh-Las Deltas Joint Unified School District General Waiver Request (3 pages) (Original Waiver request is signed and on file in the Waiver Office.)

Attachment 4: Hacienda La Puente Unified School District General Waiver Request (5 pages) (Original Waiver request is signed and on file in the Waiver Office.)

Community Day School State Board of Education Waivers for July 2012

Waiver Number	District Name, Approval Date and Size of District	Grade Span Requested (if waiver of *EC* sections 48660 and 48916.1(d))	Type(s) of School(s) with which Community Day School will be Colocated (if waiver of *EC* Section 48661(a)	Period of Request	Renewal Waiver?	If granted this waiver will be "permanent" per *EC* Section 33501(b)	Certificated Bargaining Unit Name and Representative, Position and Date of Action	Advisory Committee/School Site Council Name, Date of Review and any Objections
25-4-2012	Calaveras Unified School District 3,302 Total Students April 17, 2012	Grades four through eight; this is a middle grades configuration used by a number of school districts; county office of education does not serve these grades; maximum of 30 students in community day school (CDS)		**Requested:** July 1, 2011, through July 1, 2013 **Recommended:** July 1, 2011, through July 1, 2013	NO	YES	Calaveras Unified Educators Association (Karen Wallace) and California School Employees Association (Terri Henderson) Support March 5, 2012, and March 12, 2012	Toyon Middle School Site Council, April 11, 2012; Gold Strike, Jenny Lind High, Sierra Hills Education Center, and Calaveras Unified Transition School Site Council, April 17, 2012 No objections
20-3-2012	Firebaugh-Las Deltas Joint Unified School District 2,192 Total Students March 8, 2012	Grades one through twelve; maximum class size of seven; originally operated a CDS for students in grades seven through twelve until county office of education ceased serving younger students; expanded to serve younger with older students since they have small numbers and fiscally unable to support two small schools; no other CDS within 45 miles		**Requested:** August 17, 2011, through June 30, 2013 **Recommended:** August 17, 2011, through June 30, 2013	YES No negative interactions in past year	NO	California Teachers Association (Tracey Gonzales) and California School Employees Association (Freddie Valdez) Support February 8, 2012, and February 7, 2012	Firebaugh Middle School Site Council February 6, 2012 No objections
45-3-2012	Hacienda La Puente Unified School District 20,735 Total Students March 8, 2012		Continuation High School and Independent Study	**Requested:** August 26, 2011, through June 30, 2013 **Recommended:** August 26, 2011, through June 30, 2013	NO No negative interactions between the different schools sharing this location this year	NO	School Employees International Union (Vicki Cobos) Support Hacienda La Puente Teachers Association (Dani Tucker) and California School Employees Association (Susan Lopez) Neutral per phone call on 6-22-12 February 8, 2012, and February 7, 2012	School Site Council/Shared Decision Making January 12, 2012, and English Learners Advisory Council February 1, 2012 No objections

Created by the California Department of Education May, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	5	6	1	5	6	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Calaveras Unified School District	Michael S. Merrill	mmerrill@calaveras.k12.ca.us

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
3304 Hwy 12, PO Box 788 San Andreas CA 95249	209-754-2319 Fax Number: 209-754-2215

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2011 To: July 1, 2013	April 17, 2012	April 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Ed Code 48660 and 48916.1d Circle One: *EC* or *CCR*

   Topic of the waiver: Grade span for Community Day School (grades 4-8)

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _n/a_ and date of SBE Approval_n/a_ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Calaveras Unified Educators Assoc. on March 5, 2012 and California School Employees Assoc. on March 8, 2012.

   Name of bargaining unit and representative(s) consulted: Karen Wallace, President CUEA, Terri Henderson, CSEA

   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* District Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Toyon Middle School Site Council on April 11, 2012 and Gold Strike, Jenny Lind High, Sierra Hills Education Center, and CUSD Transition School Site Council on April 17, 2012.
   Date the committee/council reviewed the waiver request:

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. …If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, ~~but no higher grades,~~ the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school.
. …

48916.1(d) ~~If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   Our county office of education provides a program for upper and high school grade students. We are intending to provide a program that will serve our middle grades population ranging from grade four through grade eight. This is a natural progression for our students that are needing a smaller and more structured environment. This is a standard middle grades configuration used by our district to separate the middle from the high school grade students.

8. Demographic Information:
   Calaveras Unified has a student population of 3302 and is located in a rural area in Calaveras County. Our CUSD Transition CDS is located on the grounds of our District Office and serves up to 30 students identified as students needing academic and or behavioral interventions.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes __
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes __
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

MCALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _x__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	0	6	2	1	6	6

Local educational agency: Firebaugh-Las Deltas Unified School District	Contact name and Title: Howard Yamagiwa Director of Alternative Education	Contact person's e-mail address: hyamagiwa@fldusd.k12.ca.us
Address: (City) (State) (ZIP) 1976 Morris Kyle Drive Firebaugh CA 93622		Phone (and extension, if necessary): 559-659-3899 ext 6512 Fax Number: 559-658-1511
Period of request: (month/day/year) From: 8/17/2011 To: 6/30/2013	Local board approval date: (Required) March 8, 2012	Date of public hearing: (Required) March 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48916.1 (d) and portion of 48660
   Circle One: (*EC*) or *CCR*

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 57-2-2011-W-2_ and date of SBE Approval__April 21, 2011____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 7, 2012 and February 8, 2012

   Name of bargaining unit and representative(s) consulted: CSEA – Freddie Valdez and CTA – Tracey Gonzales

   The position(s) of the bargaining unit(s): __ Neutral __x Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __x_ Notice posted at each school ___ Other: *(Please specify)*

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Firebaugh Middle School Site Council
   Date the committee/council reviewed the waiver request: 2/6/12

   Were there any objection(s)? No _x__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades ~~1 to 6, inclusive, or any of grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

48916.1.(~~d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.~~

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

12.

We are currently expelling students in our Intermediate, Middle and High Schools. Our Intermediate School serves grades 4 and 5, our Middle School serves grades 6 through 8, so we are requesting a waiver to include these younger students. As we expected, the number of students referred stayed low, and the lower grades especially so. There were no negative interactions between the younger and older students. There are no other services for these students in or near our community. The closest Community School is in Fresno, which does not accept students that young. The closest Charter Schools are in Fresno, which creates a hardship on the parents. The drive is approximately a 90 mile round trip, and unfortunately many of our families do not have reliable transportation or cannot afford the gas to make the trip. Other forms of public transportation do not deliver the students close to the school in Fresno, and the parents are not comfortable sending young students on their own so far away from home. They are rightfully concerned for their safety in such a large city. We have found that even students that are older and in high school are reluctant to comply with travel to such a distant campus. This lack of compliance is the reason the district decided to establish the Community Day School in our community.

13. Demographic Information:
Firebaugh-Las Deltas Unified School District has a student population of 2,192 and is located in a Rural in Fresno County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 8, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

`` ``First Time Waiver: _x __

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	9	6	5	6	0

Local educational agency: Hacienda La Puente USD	Contact name and Title: Priscilla Tam, Principal Valley Alternative School	Contact person's e-mail address: ptam@hlpusd.k12.ca.us
Address: (City) (State) (ZIP) 15430 Shadybend Drive, Hacienda Heights, California 91745		Phone (and extension, if necessary): 626-933-3400 Fax Number: 626-933-3412
Period of request: (month/day/year) From: 8/26/11 To: 6/30/2013	Local board approval date: (Required) March 8, 2012	Date of public hearing: (Required) March 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***(EC)*** or *CCR*

EC 48661

Topic of the waiver: Co-location of Community Day School with continuation high school and independent study

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 1/20/12 and again 2/2/12
Name of bargaining unit and representative(s) consulted:

California School Employees Association (CSEA) Susan Lopez Oppose
Service Employees International Union SEIU Vicki Cobos Support
Hacienda La Puente Teacher Association HLPTA Dani Tucker Oppose

The position(s) of the bargaining unit(s): ___ Neutral _x_ Support _x_ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Notice posted at schools Date of Board meeting: 3/8/12

___ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

14. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: School Site Council/Shared Decision Making 1/12/12
English Learners Advisory Council 2/1/12

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

15. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48661. (a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(1) When the governing board of a school district ~~with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment~~ certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

16. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Rationale for request: see attached

Public Hearing held Feb 21, 2012 – Board took no action
Board Meeting held March 8, 2012 – Board revisited and approved
Board Action Item --- Item 7.03 b see attached

17. Demographic Information:
(*HLPUSD* has a K-12 student population of _20,735_ and is located in a the City of Industry in _Los Angeles__County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver for Co-location of Community Day School, Valley Continuation High School and Puente Hills School Independent Study - 15430 Shadybend Drive, Hacienda Heights, Ca 91745

Hacienda La Puente Unified School District is requesting a location waiver for Community Day School (CDS) to share the same site as the Valley Continuation High School (VHS) and Puente Hills School Independent Study (PHS). A search for an appropriate site for CDS was conducted throughout the district and to the best of our knowledge, there is no separate site that is feasible to operate a community day school in the district. The site selected is separate from all other traditional middle and high school and is consistent with the intent of the law

The community and all stakeholders were advised of the request and asked for their input. The parents and members of the Service Employees International Union (SEIU) had no objections to the co-location request. Members of the California School Employees Association (CSEA) and the Hacienda La Puente Teacher Association (HLPTA) expressed concerns regarding the safety of the students on a co-location campus. These concerns are addressed as follows:

Background Information:
CDS was originally located at the larger site based on the corner of Lomitas and 5th in La Puente. Three large sized portables and three full time instructors plus a special ed instructor was placed for CDS. At the time, a waiver was sought and approved for sharing the site with Valley Continuation and Puente Hills School Independent Study (PHS).

In 2009, Valley Continuation was moved to a former elementary school, occupying the west side of the campus. The principal was physically torn between the two locations and spent time traveling each day between the two sites (roughly 3 miles apart). The counselor was based on the CDS site and the Teacher on Special Assignment (TOSA) in charge of student discipline was based on the Valley site. It was not productive arrangement of student/staff support for either school.

In 2010, CDS and PHS were moved to join the Valley Continuation at the Shadybend site. CDS occupies the former kindergarten area, located on the east side of the campus, and, as an Independent Study school, PHS was given one classroom on the Valley (west) side of campus. With the co-location, the principal is always on site (with the exception of meetings/off-site conferences) and is able to provide services for both schools. A full time counselor and TOSA are also on site to provide student and teacher support.

Interventions addressing student discipline:
Specifically, last year, the discipline issues at CDS were above normal. We had difficult students and an instructional staff that held little or no experience in working with at-risk students. It was not uncommon for the Front Office to be filled with 4 or more CDS students, each one needing immediate attention and none with a strong sense of self-discipline. The stress level of the office staff was stretched and became a concern.

This year, the discipline policies and procedures are more consistent. A series of trainings in Response to Intervention (RtI) and Capturing Kids' Hearts were provided by the district to all staff members for the past two years. Instructors were able to provide first level interventions before sending students to the Front Office. Implementation of these strategies has created a positive and safe climate on this site for CDS and Valley Continuation High School. As a result,

both CDS and Valley students are learning to be respectful and safe; it is rare to have more than 2 students from either school at a time in the Front Office on a discipline referral.

Safety Concerns:
A brief summary of the history of CDS at Hacienda La Puente USD shows that there has always been a concern for student safety. It needs to be noted that we take in all students from the 4 high schools which means at any one time we could have rival gang members on the campus. We have had a history of ebb and flow regarding gang rivalry with students declaring school as Neutral Territory and choosing to co-exist peacefully. At other times, we may receive one or two who are so hard-core, they refuse to co-exist peacefully. Students who are unwilling to work with the interventions and support provided by instructors, counselors and administrators are reassigned to an alternative placement.

There is a physical barrier and open spaces that separate Valley and CDS. Students in each school have their own restroom. CDS students do not go through the quad area in order to access the Front Office, and each student is escorted to the Front Office by a staff member. Although the Front Office is small, interventions in place have created a positive climate on campus.

In the past two years, we have worked on changing the climate of both Valley Continuation High School and CDS by implementing the strategies of Positive Behavior Intervention Strategies (PBIS), Response to Intervention (RtI) and Capturing Kids' Hearts. Instructors and administrators participate in trainings provided by the district and by the school site. Our efforts have proven that we are on the right pathway towards effecting a change in student behavior.

Measures taken to improve the situation at CDS at the Shadybend site.

- RtI support from district personnel and reinforced by Administrators have strongly impacted the discipline issues at CDS. . The number of office referrals dropped from 78 in September 2011 to 8 referrals in February 2012.

- Timely removal of students who prove to be unwilling to be successful at CDS is also an advantage. Last year it was difficult to move students due to lack of openings at the county school. This year students are quickly removed due to poor behavior.

- CDS instructors were given 4 non-negotiable goals to be reached by Winter Break:
    - Students will learn to appropriately get needed attention by raising their hand
    - Students will learn to keep their area clean and aisle clear

    - Students will learn to minimize distractions
    - Students will learn to speak respectfully to adults and to each other
        - Instructors implemented RtI and Capturing Kids' Hearts strategies
        - Weekly meetings provided collaboration and progress monitoring
        - All 4 goals were met to teacher satisfaction by Winter Break

- The return of an experienced and effective CDS instructor

- The addition of one full time on-site security officer housed at CDS. This increases the security officers to two on site: one primarily based at CDS and one based at Valley.

Means of Maintaining Separation between CDS and Valley Continuation High School and Puente Hills School Independent Study and overall safety within each school:

- CDS students arrive to, and depart from, the site at a different location than VHS/PHS students.
- CDS students arrive to, and depart from, the site at different times than VHS/PHS students
- Students from the CDS do not cross paths with either VHS nor PHS enroute to classes
- Students from CDS have access to separate restrooms, PE, and lunch areas from VHS/PHS students
- There is a physical barrier (fence and gate) which separates the students from CDS and VHS/PHS
- There is a designated No Student Area which no student has access
    - The No Student Area is clearly visible from the Front Office
    - The No Student Area is fenced off from CDS and VHS/PHS
- A Campus Peace Officer monitors and patrols the areas of CDS and VHS/PHS
    - Supervision is also conducted by the Administrative Staff during passing periods
- CDS students are always under supervision both inside and outside the classroom
    - CDS students are escorted to the Front Office and remain under supervision in the Front Office
- There has been no negative interaction between CDS students and VHS/PHS students at the site. In addition, negative incidents within each school are substantially, significantly lower than previous years. The number of discipline referrals from both schools has dropped to 50% over the past three years.

The separation between CDS and VHS/PHS that exists on the Shadybend campus has been proven to be adequate and sufficient to provide for the safety of all students.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-11

ITEM #W-11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Klamath-Trinity Joint Unified School District** under the authority of California *Education Code* Section 46206 to waive *Education Code* Section 46201(d) the audit penalty for offering less instructional time in the 2010–11 fiscal year for students in K–3 (shortfall of 135 minutes per grade). Waiver Number: 32-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the request to waive the instructional time penalty on the following conditions:

Klamath-Trinity Joint Unified School District maintains instructional minutes at Weitchpec Elementary School at a minimum of the amount required by law plus 135 minutes in all of kindergarten, and grades one through three in both school years 2011–12 and 2012–13.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has approved similar requests with conditions. California *Education Code (EC)* Section 46206 authorizes waivers to be granted for fiscal penalties due to a shortfall in instructional time. A waiver may be granted upon the condition that the school or schools, in which the minutes were lost, maintain minutes of instruction equal to those lost, in addition to the minimum amount required for twice the number of years that it failed to maintain the required minimum length of time.

SUMMARY OF KEY ISSUES

During an audit of instructional minutes for 2010–11 it was discovered that Klamath-Trinity Joint Unified School District failed to offer the required number of minutes for all of kindergarten and grades one through three at Weitchpec Elementary School. The shortage occurred because the instructional minutes spreadsheet used by the school to check their compliance with instructional minute requirements included an imbedded calculation error. This calculation error resulted in a deficit of 135 minutes in each of

kindergarten, and grades one through three. The calculation error has since been corrected.

Klamath-Trinity Joint Unified School District is using school years 2011–12 and 2012–13 to make up the shortfall of instructional minutes at Weitchpec Elementary School. Due to the flexibility offered by EC Section 46201.2 the minimum number of required annual instructional minutes for Weitchpec Elementary School are 51,625 in kindergarten and in each of grades one through three through 2014–15.

This waiver request was approved at the Klamath-Trinity Joint Unified School District board meeting on March 13, 2012.

The Department recommends approval of this waiver as long as the Klamath-Trinity Joint Unified School District maintains increased instructional minutes for kindergarten and grades one through three of at least the amount required by law plus 135 minutes at Weitchpec Elementary School for a period of two years beginning in 2011–12 through 2012–13. The district must also report the annual instructional minutes offered in kindergarten and grades one through three at Weitchpec Elementary School in its annual audit report.

Demographic Information: Weitchpec Elementary School in the Klamath-Trinity Joint Unified School District has a student population of 10 pupils and is located in a rural town in Humboldt County.

Authority for Waiver: *EC* Section 47612.6(a)

Period of request: August 27, 2010 to June 17, 2011

Local board approval date(s): March 13, 2012

Bargaining unit(s) consulted on date(s): March 13, 2012

Name of bargaining unit/representative(s) consulted: Maggie Peters, President of Klamath-Trinity Teacher's Association and Terry Bray, President of California School Employees Association

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose
Comments (if appropriate):

Advisory committee(s) consulted: Not Applicable

Objections raised (choose one): ☐ None ☐ Objections are as follows:

FISCAL ANALYSIS (AS APPROPRIATE)

2010-11 penalty amount of $776 is calculated as follows:

Longer Instructional Day Incentive Penalty:
Necessary Small School Revenue Limit for Weitchpec Elementary School is $148,556

Deficit of 135 minutes divided by 51,625 (minutes required for 2010–11) equals .2615%

$148,556 multiplied by .2615% equals $388

Longer Instructional Year Incentive Penalty:
Necessary Small School Revenue Limit for Weitchpec Elementary School is $148,556

Deficit of 135 minutes divided by 51,625 (based on 1982-83 minutes) equals .2615%

$148,556 multiplied by .2615% equals $388

Longer Instructional Day Incentive Penalty plus Longer Instructional Year Penalty, $388 plus $388 equals $776.

ATTACHMENT(S)

Attachment 1: Waiver Number, District, and Information Regarding the Waiver (1 Page)

Attachment 2: Specific Waiver Request (3 Pages) (Original waiver request is signed and on file in the Waiver Office)

Waiver Number, District, and Information Regarding the Waiver

Waiver Number	District	Period of Request	District's Request	CDE Recommended	Bargaining Unit Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Potential Annual Penalty Without Waiver
32-3-2012	Klamath-Trinity Joint Unified	**Requested:** August 27, 2010 to June 17, 2011 **Recommended:** August 27, 2010 to June 17, 2011	District requests waiving *Education Code* Section 46201(d) to avoid the audit penalty in exchange for offering increased instructional minutes in 2011-12 and 2012-13, consistent with *Education Code* Section 46206	**Approval** of waiver, consistent with *Education Code* Section 46206 with the following conditions: Klamath-Trinity Joint Unified School District maintains instructional minutes in K–3 of at least the amount required by law plus 135 minutes for 2011–12 through 2012–13.	Maggie Peters, President of the Klamath-Trinity Teacher's Association and Terry Bray, President of the California School Employees Association Both consulted on March 13, 2012 Both bargaining Representatives held a **neutral** position regarding the waiver.	March 13, 2012	$776

Created by the California Department of Education
May 2012

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST *Instructional Time Requirements*

ITAP-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Waiver of Audit Penalties**
(District/COE)

Send Original plus one copy to: Send electronic copy in **Word** and back-up material to:
Waiver Office, California Department of Education
waiver@cde.ca.gov
1430 N Street, Suite 5602
Sacramento, CA 95814

CD CODE						

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
KLAMATH-TRINITY JOINT UNIFIED SD	Cyn Van Fleet, Business Manager	cvanfleet@ktjusd.k12.ca.us

Address: (ZIP)	(City)	(State)		Phone (and extension, if necessary):
				(530) 625-5600 x1004
PO Box 1308	Hoopa	CA	95546	Fax number: (530) 625-5611

Period of request: (month/day/year)	Local board approval date
From: 8/27/10 To: 6/17/11	March 13, 2012

LEGAL CRITERIA

1. Authority for the waiver: **Specific code section:**

EC 46206(a) The State Board of Education may waive the fiscal penalties set forth… for a school district or county office of education that fails to maintain the prescribed minimum length of time for the instructional school year, minimum number of instructional days for the school year, or both.
(b) For fiscal penalties incurred …a waiver may only be granted … upon the condition that the school or schools in which the minutes, days, or both, were lost, maintain minutes and days of instruction equal to those lost and in addition to the amount otherwise prescribed in this article for twice the number of years that it failed to maintain the minimum number of instructional days and continuing for each succeeding school year until the condition is satisfied.

2. *Education Code* or *California Code of Regulations* or portion to be waived (check as appropriate)

For Districts:
__*EC* 46200(c) Penalty - required number of days
_X_*EC* 46201(d) Penalty - required number of minutes
__*EC* 46202(b) Penalty – less than 1982-83 minutes

For County Offices of Education:
__*EC* 46200.5(c) Penalty - required number of days
__*EC* 46201.5(c) Penalty - required number of minutes
__*EC* 46202.(b) Penalty – less than 1982-83 minutes

3. Collective bargaining unit information.

Does the district have any employee bargaining units? ___ No _X__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 13, 2012

Name of bargaining units and representative(s) consulted:
Klamath-Trinity Teacher's Association (KTTA), President: Maggie Peters
California School Employees Association (CSEA), President: Terry Bray

The position(s) of the bargaining unit(s): _X__ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

(District/COE)

4. Reason for Waiver Request:

- Describe the **circumstances that brought about the shortage** of time (days and/or minutes) for each finding.
- Tell what you did the following year, or preferably that same year to try to **minimize or correct** the error.
- State how you plan to do the makeup (add to the regular day, cancel minimum days, add a day to the year, etc.) and in what years – for **both affected students and affected grade levels**.

1. *This error was caused by a calculation error embedded in the spreadsheet used for calculating minutes of instruction. The calculation in the spreadsheet has been corrected.*
2. *Per our audit, the minimum number of instruction minutes offered is 51,760 for Weitchpec Elementary. We are offering 52,485 minutes of instruction for the 2011-12 and 2012-13 school years.*
3. *Five minutes will be added to all days of instruction (175), which will provide 875 additional minutes of instruction.*

5. Required Attachments:

- Copy of the audit finding and local educational agency response.
- At least two years worth of proposed bell schedule(s) and school calendar(s) for the required make-up of time, showing all full and partial instructional days, student free days, etc.
- Summary of instructional minute totals, daily and annually, including the state minimum by grade(s) and the 1982-83 requirements for the district/school for the two years of waiver make-up.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: SUPERINTENDENT	Date: MARCH 13, 2012

Signature of SELPA Director (Only if a Special Education Waiver under EC 56101)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-12

ITEM #W-12

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two school districts to waive a portion of California *Education Code* Section 35330(b)(3) to authorize expenditures of school district funds for students to travel to Oregon to attend curricular and extracurricular trips/events. Waiver Number: Mt. Shasta Union Elementary School District 18-3-2012 Weed Union Elementary School District 10-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval to waive a portion of California *Education Code (EC)* Section 35330(b)(3) to authorize expenditures of school district funds for both districts' students to travel to Oregon to attend economically prudent curricular and extracurricular trips/events. *EC* Section 33051(b) will apply, and the districts will not be required to reapply for this waiver if information contained on the request remains current.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all similar waivers in the past.

SUMMARY OF KEY ISSUES

Education Code Section 35330(b)(3) states, "…no expenses of pupils participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds."

Both school districts are located in the northern part of California, not far from the Oregon border, and are in geographically rural and isolated areas.

Oregon offers social, cultural, and educational opportunities not available locally, such as the Oregon Shakespeare Festival and ScienceWorks Hands-On Museum. Without financial help from the districts, the trips would not be possible.

Based on the reasons provided by the districts for traveling to Oregon, CDE recommends approval of this waiver request to attend curricular and extracurricular trips/events in Oregon.

Period of recommendation: See Attachment 1

Local board approval date(s): See Attachment 1

Public hearing held on date(s): See each waiver request

Bargaining unit(s) consulted on date(s): See each waiver request

Public hearing advertised by (choose one or more): See each waiver request

Advisory committee(s) consulted: See each waiver request

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a school site council and the school site council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Table of Districts' Waiver Information (1 page)

Attachment 2: Mt. Shasta Union Elementary School District General Waiver Request 18-3-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Weed Union Elementary School District General Waiver Request 10-3-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number	District	Effective Period of Request(s)	Local Board Approval Date(s)	Eligible for Streamlined Waiver Policy
18-3-2012	Mt. Shasta Union Elementary School District	**Requested:** March 1, 2012 to February 28, 2014 **Recommended:** March 1, 2012 to March 1, 2014	March 5, 2012	Yes, API of 867
10-3-2012	Weed Union Elementary School District	**Requested:** March 1, 2012 to February 28, 2014 **Recommended:** March 1, 2012 to March 1, 2014	February 27, 2012	No

Prepared by the California Department of Education on May 9, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	7	7	0	4	2	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
MOUNT SHASTA UNION SCHOOL DISTRICT	**Kathi Emerson, Superintendent**	kemerson@sisnet.ssku.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
595 East Alma	**Mount Shasta**	**CA**	**96067**	**530-926-6007** Fax Number: **530-926-6103**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **3/1/2012** To: **2/28/2014**	**March 5, 2012**	**March 5, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: **Out-of-State Field Trips**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **CSEA – 1/26/12 MSETA - 2/24/12**

   Name of bargaining unit and representative(s) consulted: **CSEA/Linda Smyth MSETA/Cheryl Keiner**

   The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper **_X_** Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Sisson School Site Council and MSE School Site Council

   Date the committee/council reviewed the waiver request: **2/2/12 and 2/27/12**

   Were there any objection(s)? No **_X_** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EC Section 35330(d) states "…no expenses of pupils participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds."

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

To give our students exposure to social, cultural and educational opportunities not available locally. Examples of field trips to Southern Oregon include Oregon Shakespeare Festival (OSF) and ScienceWorks Hands-On Museum located in Ashland, Oregon. Our students live in a geographically rural and isolated area. Without financial help from the District these trips would not be possible.

8. Demographic Information:
Mount Shasta Union School District has a student population of 563 and is located in a small, rural city in Siskiyou County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	7	7	0	4	8	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
WEED UNION ELEMENTARY SCHOOL DISTRICT	**Kathi Emerson, Superintendent**	kemerson@sisnet.ssku.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
595 East Alma	**Mount Shasta**	**CA**	**96067**	**530-926-6007** Fax Number: **530-926-6103**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **3/1/2012** To: **2/28/2014**	**February 27, 2012**	**February 27, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: **Out-of-State Field Trips**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **WCTA – 2/6/12** **CSEA – 2/1/12**

   Name of bargaining unit and representative(s) consulted: **WCTA/Karen Mazzei** **CSEA/Shanna Machado**

   The position(s) of the bargaining unit(s): __ Neutral _**X**_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _**X**_ Notice posted at each school ___ Other: *(Please specify)*

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Weed elementary School Site Council

   Date the committee/council reviewed the waiver request: **2/6/2012**

   Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EC Section 35330(d) states "…no expenses of pupils participating in a field trip or excursion to any other state, the District of Columbia, or a foreign country authorized by this section shall be paid with school district funds."

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

To give our students exposure to social, cultural and educational opportunities not available locally. Examples of field trips to Southern Oregon include Oregon Shakespeare Festival (OSF) and ScienceWorks Hands-On Museum located in Ashland, Oregon. Our students live in a geographically rural and isolated area. Without financial help from the District these trips would not be possible.

12. Demographic Information:
Weed Union Elementary School District has a student population of 279 and is located in a small, rural city in Siskiyou County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-13

ITEM #W-13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

Request by **Coachella Valley Unified School District** to waive portions of California *Education Code* sections 17455, 17466, 17468, 17469, 17470, 17472, 17475, and all of sections 17473 and 17474, specific statutory provision for the sale of surplus property. Approval of the waiver would allow the district to sell a piece of property using a "request for proposal" process, thereby maximizing the proceeds from the sale of the Oasis School Site. Waiver Number: 184-2-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval with the following condition, that the proposals the governing board determines to be most desirable shall be selected within 30 to 60 days of the public meeting when the proposals are received, and the reasons for those determinations shall be discussed in public session and included in the minutes of the meeting.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The district is requesting to waive similar provisions for the sale or lease of surplus property.

SUMMARY OF KEY ISSUES

Under the provisions of *Education Code* sections 33050 through 33053, the district requests that specific portions of the *EC* relating to the sale or lease of district property be waived. The district is seeking this waiver as its previous attempts to sell the property utilizing the process required by law resulted in no proposals to purchase the property. The district states that the ability to offer the property utilizing more standard commercial advertising methods and direct negotiations with interested purchasers will result in the sale of the Oasis Site. Additionally, the district is requesting that the requirement of sealed proposals and the oral bidding process be waived allowing the district to determine what constitutes the most "desirable" bid and set their own terms and conditions for the sale of surplus property.

The Oasis site is located on approximately 14.29 acres of real property in Thermal, California. The school formerly located on the site has been relocated to a new site. The district states that the site is no longer suitable for school purposes, and, in its current state of disrepair, is a liability to the district.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

The flexibility in property disposition requested herein will allow the district to maximize revenue. There is no statewide fiscal impact.

ATTACHMENT(S)

Attachment 1: Summary Table (1 page)

Attachment 2: General Waiver Request (8 pages) (Original waiver request is signed and on file in the Waiver Office.)

SUMMARY TABLE									
Waiver Number	School District	Property	Period of Request	Local board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted – Date	Streamlined Waiver Policy - API
184-2-2012	Coachella Valley Unified	Oasis Property	**Requested:** May 15, 2012 – May 15, 2014 **Recommended:** May 15, 2012 – May 14, 2014	February 21, 2012	February 21, 2012	California School Employees Association (CSEA) – February 22, 2012	Neutral	Coachella Valley Unified School District Facilities Information Committee – February 24, 2012 No objections Surplus Advisory Committee – March 7, 2012 No objections	No

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___ X

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	3	6	7	6

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Coachella Valley Unified School District	**Elsa Esqueda, Director of Facilities & Maint.**	**elsae@cvusd.us**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
87225 Church Street		**Thermal**		**(760) 398-5909 ext. 203**
	CA		**92274**	Fax Number: **(760) 398-1224**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **05/15/2012** To: **05/15/2014**	**02/21/2012**	**02/21/2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number):

17455, 17466, 17468-17470, and 17472-17475 ◯ Circle One: *EC* or *CCR*

Topic of the waiver: **Further compliance with auction/bidding proposal process to dispose of surplus real property.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **February 22, 2012**

Name of bargaining unit and representative(s) consulted: **Veronica I. Zepeda**

California School Employees Association

The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? **Publication in *The Desert Sun* on February 15, 2012**

X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

CVUSD Facilities Information Committee
Surplus Advisory Committee, Chairman Bobby Melkesian

Date the committee/council reviewed the waiver request: **February 24, 2012, and March 7, 2012, respectively**

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

The Coachella Valley Unified School District is seeking a waiver from further compliance with Education Code Sections 17455, 17466, 17468-17470, and 17472-17475. For specific language requested to be waived, please see Exhibit "1," which is attached hereto and incorporated herein by this reference.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Coachella Valley Unified School District complied with the surplus property requirements set forth in the Education Code in an effort to sell the former Oasis School Site. Such efforts were unsuccessful, and thus, given current market conditions and the location of the property, the District desires to utilize more standard commercial real estate practices to dispose of the property—including the use of a broker to advertise and market the property for a negotiated sale, rather than sale at an auction. Please see Exhibit "2," which is attached hereto and incorporated herein by this reference, for more detailed information.

8. Demographic Information:
Coachella Valley Unified School District has a student population of 18,464 (2010-2011) and is located in a mostly rural and suburban area in Riverside and Imperial Counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EXHIBIT 1

STATUTORY LANGUAGE REQUESTED WAIVED

The Coachella Valley Unified School District respectfully requests a waiver from further compliance with the following stricken provisions of the Education Code with respect to the former Oasis School Site:

Education Code § 17455

The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district~~, and shall be made in the manner provided by this article~~.

> *Rationale*: The language indicating that the sale of the property is to be made in the manner provided by this article is to be waived since the District is asking that several provisions of the article be waived and consequently, the sale will not be made in the manner provided in Article 4.

Education Code § 17466

Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased~~ and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker ~~out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

> *Rationale*: The stricken language to be waived provides for the governing board to establish a minimum price and receive sealed proposals for the purchase of the property at an identified meeting of the District's governing board. The District is requesting that the requirement of sealed proposals to purchase the property be waived, allowing the District to negotiate the sale of the Former Oasis School Site with an interested purchaser. As the District cannot predict in advance the timing of negotiations with interested purchasers, it cannot at the time of adopting the resolution contemplated by this Section 17466 know when proposals must be brought back to the governing board for consideration. The District intends to utilize the services of a broker to advertise and solicit proposals for the purchase of the Former Oasis School Site, and bring proposals to the governing board when necessary to consider the approval of a sale.

Education Code § 17468.

If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the~~ sealed~~ proposal ~~or stated in or with the oral bid,~~ which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

> *Rationale*: The stricken language to be waived provides for the District to receive sealed proposals and oral bids to purchase the property at an identified meeting of the District's governing board. The District is requesting that the requirement of sealed proposals and oral bidding to purchase the property be waived, allowing the District to negotiate the sale of the Former Oasis School Site with an interested purchaser.

Education Code § 17469.

Notice of the adoption of the resolution~~ and of the time and place of holding the meeting~~ shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district~~, not less than 15 days before the date of the meeting,~~ and by publishing the notice not less than once a week for three successive weeks ~~before the meeting~~ in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

> *Rationale*: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase of the Former Oasis School Site. Such a requirement, however, will be removed pursuant to the language stricken within Education Code Section 17466. As modified, the District would still be required to provide notice of its adoption of a resolution of intent to sell the property, but the posting of that resolution and notice in a newspaper would no longer be tied to an established date to receive proposals.

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Education Code § 17470.

(a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice ~~of the public meeting prescribed by Section 17466,~~ in writing, by certified mail~~, at least 60 days prior to the meeting~~.

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

> *Rationale*: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase of the Former Oasis School Site. Such a requirement, however, will be removed pursuant to the language stricken within Education Code Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

Education Code 17472.

~~At the time and place fixed in the resolution for the meeting of the governing body,~~ ~~a~~All ~~sealed~~ proposals which have been received shall, in public session, be ~~opened,~~ examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless ~~a higher oral bid is accepted or~~ the board rejects all bids.

> *Rationale*: The stricken language to be waived provides for the District to receive and open sealed proposals and oral bids to purchase the property at an identified meeting of the District's governing board. The District is requesting that the requirement of sealed proposals and oral bidding to purchase the property be waived, allowing the District to negotiate the sale of the Former Oasis School Site with an interested purchaser.

Remainder of Page Left Intentionally Blank

Education Code § 17473.

~~Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted.Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.~~

> *Rationale*: The entire section is to be waived because the District, in negotiating an agreement to sell the Former Oasis School Site, will not be accepting oral bids.

Education Code § 17474.

~~In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.~~

> *Rationale*: The entire section is to be waived because the District, in negotiating an agreement to sell the Former Oasis School Site, will not be accepting oral bids.

Education Code § 17475.

The final acceptance by the governing body may be made ~~either at the same session or~~ at any ~~adjourned~~ session ~~of the same meeting held within the 10 days next following~~.

> *Rationale*: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation.

EXHIBIT 2

Explanation of Need/Desired Outcome

The Coachella Valley Unified School District ("District") is seeking, with respect to only its former Oasis School Site ("Oasis Site"), a waiver from further compliance with the statutory requirement that surplus real property be sold through an advertised public auction/bid proposal process. With such a waiver, the District would utilize the services of a broker to market the Oasis Site and directly negotiate with interested purchasers.

The District is seeking this waiver as its previous attempt to sell the Oasis Site, utilizing the process required by Education Code Sections 17466 through 17478, portions of which are now sought to be waived, resulted in no written or oral proposals to purchase the property. The District complied with the requirements of these sections when its Board adopted a Resolution of Intent to sell the Oasis Site on September 22, 2011, wherein the Board set the terms and conditions for the sale of the Oasis Site, and established a minimum price of $200,000. The District subsequently extended the time in which to receive proposals to February 7, 2012, and provided notice in *The Desert Sun* as well as through its broker. On February 7, 2012, however, the District received no written or oral proposals to purchase the Oasis Site.

The Oasis Site is located on approximately 14.29 acres of real property, identified as Riverside County Assessor Parcel Nos. 755-150-022 and 755-162-009, located on either side of 76th Avenue immediately west of Pierce Street (SR-195) in Thermal, California. The school formerly located on the site has been relocated to a new site, utilizing state hardship funds, and the District is expected, as a condition of such funds, to provide 50 percent of the proceeds from the sale of the Oasis Site to the State. The Oasis Site is no longer suitable for school purposes, and, in its current state of disrepair, is a liability to the District.

In addition to the District's prior compliance with the statutory requirements now sought to be waived, the District has also already complied with the other requirements of the Education Code relative to the sale of surplus property. The District offered the Oasis Site to public agencies and other listed entities pursuant to Education Code Sections 17459 and 17464, and the District's Board of Trustees ("Board") previously determined that determined the site to be exempt from the requirements of the Naylor Act (Education Code Section 17485 *et seq*., formerly Education Code Section 39390 *et seq*.), in light of the District's active effort to acquire an additional school site in Mecca, California, as authorized by Education Code Section 17497. Consequently, the District is not seeking a waiver of these requirements. Rather, it is only seeking a waiver of the public auction/bid proposal process described in Education Code Sections 17466 through 17478. Specifically, the District is seeking a waiver from the statutory language stricken in Exhibit 1, attached hereto.

The District does not believe, particularly in the current economy, that a repeat of the bidding process will result in the sale of the Oasis Site. Rather, in current market conditions, the District believes that marketing the property with a licensed real estate broker, utilizing more standard commercial advertising methods and direct negotiation with interested purchasers, will more likely result in the sale of the Oasis Site. Consequently, in order to streamline the District's administrative oversight of the sale of the Oasis Site, and minimize costs in doing so in a difficult real estate market, the District is requesting this waiver.

A map of the Oasis Site, the resolutions adopted by the Board and related minutes relative to the Oasis Site, and the report and recommendations received by the District from its Surplus Property Advisory Committee, formed and utilized consistent with Education Code Section 17387 *et seq.*, were included with the original request submitted by the District on or about February 24, 2012, in Exhibits 3 through 9. Additional documentation will be made available upon request.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-14

ITEM #W-14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two districts to waive one or more of the following California *Education Code* sections related to bonded indebtedness limits: Sections 15102, 15106, 15268, and 15270(a). Total bonded indebtedness may not exceed 1.25 percent of the taxable assessed valuation of property for high school and elementary school districts or 2.5 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of $30 per $100,000 of assessed value for high school and elementary school districts or $60 per $100,000 for unified districts, may also apply. Waiver Number: Pittsburg Unified School District 168-2-2012 Savanna Elementary School District 132-2-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends that the bonded indebtedness limits be waived with the condition that each district's total bonded indebtedness as a percent of assessed valuation, does not exceed the percent shown on Attachment 1 and that the tax rate levied at the time of bond issuance does not exceed the amount shown on Attachment 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate levy stated on the bond measure.

Note, the SBE has never approved a waiver that would allow the district to exceed the tax rate levy as stated on the bond measure.

SUMMARY OF KEY ISSUES

To raise funds to build or renovate school facilities, with voter authorization, school districts may issue general obligation (G.O.) bonds. Prior to 2001, districts needed a two-thirds approval. In November 2000, districts were given another option for authorizing and issuing bonds when California voters passed Proposition 39, which allows school

bonds to be approved with a 55 percent majority vote if the district abides by several administrative requirements, such as establishing a committee to oversee the use of the funds. Once the G.O. bonds are authorized, school districts issue the bonds in increments needed to fund their facility projects.

When the voters authorize a local G.O. bond, they are simultaneously authorizing a property tax increase to pay the principal and interest on the bond. For Proposition 39 bonds, California *Education Code (EC)* sections 15268 and 15270(a) limits the tax rate levy authorized in each election to $30 per $100,000 of taxable property for high school and elementary school districts, and $60 per $100,000 for unified school districts. The *EC* does not provide tax rate levy limits for non-Proposition 39 bonds, however, an estimate of the tax rate levy required to repay the bonds is included in the voter pamphlet.

The *EC* also provides limits related to a district's total bonded indebtedness. *EC* sections 15102 and 15268 limit an elementary or high school district's total G.O. bond indebtedness to 1.25 percent of the total assessed valuation of the district's taxable property, whereas *EC* sections 15106 and 15270(a) limit a unified school districts to 2.5 percent. The limits on total bonded indebtedness and on tax rate levies, as they apply to the districts requesting a waiver, are noted on Attachment 1.

Districts are requesting waivers of the *EC* sections pertaining to bonded indebtedness in order to issue bonds that voters have already approved. Because the limits are based on assessed valuation, it can have disparate effects on districts of similar types. For example, a district with high assessed valuation can issue more in G.O. bonds before reaching the limit than a district with a similar number of students and facility needs, but a lower assessed valuation. Similarly, in the current time of declining property values, districts are seeing a decline in their bonding capacity.

Without a waiver, school districts that are close to their bonding capacity must issue fewer bonds, delay the issuance of bonds until their assessed valuation increases, or obtain other, more expensive, non-bond financing to complete their projects, the costs of which will be paid from district general funds. Therefore, CDE has historically recommended that the SBE approve related waiver requests. However, because it is CDE's assumption that the average voter is unaware tax rate levy limits could be changed by the SBE through a waiver process, to ensure that a waiver approval does not have an adverse effect on local approval of future bond measures, CDE has always recommended that the waiver be approved on the condition that the statutory or estimated tax rate levies are not exceeded at the time the bonds are issued.

The Department has reviewed each waiver and the district's schedule of assessed valuation and principal reduction to estimate the period of time that the waiver will be needed (noted on Attachment 1). The CDE recommends that the bonded indebtedness limits be waived with the condition that each district's total bonded indebtedness as a percent of assessed valuation, does not exceed the percent shown on Attachment 1 and that the tax rate levy does not exceed the amount shown on Attachment 1.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of these waivers would allow the districts to accelerate the issuance of

voter-approved bonds to avoid serious financial stress to the district's general fund.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Pittsburg Unified School District General Waiver Request (9 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Savanna Elementary School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Increase in Bond Indebtedness Limits

California *Education Code (EC)* sections 15102 and 15268 prohibit elementary and high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. *EC* sections 15106 and 15270(a) prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property. *EC* sections 15268 and 15270(a) limit bonds authorized by a 55 percent majority in elementary and high school districts to $30 per $100,000 of taxable property per election and unified school districts to $60 per $100,000.

Waiver Number	District	Period of Request	Debt Capacity Limit and Average Tax Rate per $100,000 Assessed Valuation Required by Law or Noted on Voter Pamphlet (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Previous Waivers	Fiscal Status
168-2-2012	Pittsburg Unified School District	**Requested:** May 10, 2012 to December 31, 2022 **Recommended**: July 19, 2012 to December 31, 2022	3.58% (Previous Approved Waiver) $60.00	5.0% $60.00	5.0% $60.00	Pittsburg Teachers Association, Chris Coan, President, California School Employees Association, John Culcasi, Vice-President, 2/14/12 **Support**	February 8, 2012	Citizens Bond Oversight Committee, 3/26/12 **No Objections**	Yes 2/1/11 to 2/1/18 at 3.58%	Positive
132-2-2012	Savanna Elementary School District	**Requested:** July 1, 2012 to July 1, 2021 **Recommended**: July 19, 2012 to July 1, 2021	1.25% $30.00	2.5% $30.00	2.5% $30.00	Savanna District Teachers Association, Greg Payne and Mary Johnson Cajiao, Co-Presidents, California School Employees Association, Robert Rainey, President and Mitch Dolberry, Vice President, 2/3/12, 2/7/12, 2/16/12 **Support**	February 16, 2012	Savanna Elementary School District Citizens Oversight Committee, 2/8/12 **No Objections**	No	Positive

Created by the California Department of Education
May, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:___
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to:
waiver@cde.ca.gov

CD CODE						

Local educational agency: Pittsburg Unified School District	Contact name and Title: Enrique Palacios, Associate Superintendent, Business Services	Contact person's e-mail address: epalacios@ pittsburg.k12.ca.us
Address: (City) (State) (ZIP) 2000 Railroad Avenue Pittsburg, CA 94565		Phone (and extension, if necessary): 925-473-2302 Fax Number: 925-473-4273
Period of request: (month/day/year) From: 05-10-12 To: 12-31-22	Local board approval date: (Required) 02-08-12	Date of public hearing: (Required) 02-08-12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 151606 and 15270(a) Circle One: *EC* or *CCR*

   Topic of the waiver: Statutory Bonding Capacity

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval _N/A_
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining unit and representative(s) consulted: (See Attached)

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*) See Attached.

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district. How was the required public hearing advertised? (See Attached)

   ___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: (See Attached)

   Were there any objection(s)? No ___ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   See Attached.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:

   The District has a student population of more than 9,500 and is located in an urban area of East Contra Costa County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Associate Superintendent, Business Services	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education
General Waiver Request

Answer to Item #3

The District consulted with both the Pittsburg Teachers Association and the California School Employees Association on February 14, 2012. Both bargaining units are in support of the District's waiver request and have evidenced their support by providing the attached letters signed by Chris Coan, the President of PTA, and by John Culcasi, the First Vice President of the CSEA.

Answer to Item #4

Per District Policy, the Notice of Public Hearing (See Attached) was posted at each school site, at the District office, at the Pittsburg Public Library, and at the Pittsburg City Hall.

Answer to Item #5

The Citizens Bond Oversight Committee will review the proposed waiver request at their regularly scheduled meeting on Wednesday, March 26, 2012. It is anticipated that there will be no objections.

California Department of Education
General Waiver Request
Answer to Item #6

The District is requesting a waiver of the portion of Education Code Section 15106 identified in strike out text below:

15106. ~~A unified school district or community college district may issue bonds that, in aggregation with bonds issued pursuant to Section **15270**, shall not exceed 2.5 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.~~ In computing the outstanding bonded indebtedness of a unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively. ...

The District is requesting a waiver of the portion of Education Code Section 15270(a) identified in strike out text below:

15270. ~~(a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.~~ The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars ($60) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIIIA of the California Constitution.

California Department of Education
General Waiver Request
Answer to Item #7

Pittsburg Unified School District
Waiver of Education Code Section 15106 and Section 15270(a)

Summary. The Pittsburg Unified School District (the "District") is seeking a waiver of Education Code Sections 15106 and 15270(a). Each of these statutes limits the statutory bonding capacity of a unified school district to 2.50% of its then current assessed valuation. Section 15106 applies to bond measures approved by two-thirds vote under Proposition 46 (1986) and Section 15270(a) applies to bond measures approved by fifty-five percent vote under Proposition 39 (2000). The waiver will allow the District to continue its construction program without interruption and without interim financing by enabling the District to issue the remaining authorized but unissued bonds under its 2010 Measure L bond authorization in the next several years.

Prior Waiver. Last year, the District applied for and was granted a bonding capacity waiver specifically for this bond authorization (waiver #48-10-2010-W-13). The District's strategy at that time was to request a bonding capacity waiver that would cover an upcoming sale of $60 million worth of bonds. The requested increase in the bonding capacity to 3.58% did just that, and the District issued $60 million in bonds ($35 million from the 2006 Measure J bond authorization and $25 million from the 2010 Measure L bond authorization) in May. The District now recognizes that having a waiver large enough to cover all bonds that have been authorized by the voters will provide additional flexibility to plan for future projects and future bond issuances without the uncertainty of having to re-submit a waiver application to the Department of Education in connection with each series of bonds to be issued. With this in mind, the District is now requesting that a waiver be granted to increase the bonding capacity to 5.00%. Such an increase will cover all bonds that have previously been authorized by District voters. To be clear, this waiver request reflects more of a change in strategy than a change in plans or economic circumstances. By increasing the limit to 5.00% rather than the current 3.58%, the bonding capacity waiver will cover all voter authorized bonds not yet sold.

Bond Program Size and Public Support. The community of Pittsburg has continuously supported its students by approving four bond measures totaling $255.5 million since 1995. These authorizations are described below:

Election	Type of Election	% Support	Original Authorization	Remaining Authorization	Outstanding Principal
1995 Measure D	Prop 46	66.8%	$30,000,000	$0	$18,795,000
2004 Measure E	Prop 39	70.8%	40,500,000	0	36,890,000
2006 Measure J	Prop 39	74.1%	85,000,000	0	80,700,000
2010 Measure L	Prop 39	68.5%	100,000,000	75,000,048	24,999,952
Total				**$75,000,048**	**$161,384,952**

The goal of the facility program is to provide adequate space for all students and to ensure that the quality of such space reflects standards established by the District. The 2004 Measure E bond proceeds were used to build two new schools, Marina Vista Elementary School and Rancho Medanos Jr. High School, and to modernize Foothill Elementary School. The 2006 Measure J bond proceeds were used to reconstruct the new Pittsburg High School, which was opened for school in September of 2010. The 2010 Measure L authorization provided an additional $100 million of funding to reconstruct a new junior high school or an existing site in order to relieve overcrowding, to make repairs and upgrades at three elementary schools, to implement district-wide energy and solar systems for efficiency and cost savings, and to construct new early childhood facilities.

Declines in Tax Base. The recent global economic collapse and the accompanying decline in property values brought unprecedented declines in the District's assessed value. After growing at an average of 8.95% per year during the ten-year period from 1998-99 through 2007-08, assessed values decreased in four consecutive years: by 2.69% in 2008-09, by 14.66% in 2009-10, by 1.33% in 2010-11, and by 0.83% in 2011-12. The cumulative effect of the last four years of tax base declines has been to reduce the size of the District's tax base from a high of $5.61 billion in 2007-08 to its current $4.56 billion (almost exactly the size of the District's tax base in 2004-05), or a loss of 18.7% of its tax base value. A twenty year history of assessed values in the District is attached as Exhibit A.

Impact on the Bond Program. The unprecedented decline in the District's tax base has had significant impact on the District's bond program. In 2009, the District had plans to issue the final $35 million of bonds authorized under 2006 Measure J. Given the decline in assessed value in tax year 2008-09, the District determined that it could not issue 2006 Measure J bonds within the Proposition 39 tax rate limitations. Instead the District chose to issue $33.895 million of Certificates of Participation (2009 COPs) in December 2009, as a form of interim financing. Proceeds of this financing were to be used to complete the construction of the Pittsburg High School. The 2009 COPs were a general fund obligation, and annual payments through 2014-15 were approximately $1.94 million, which increased to approximately $2.9 million for the remaining 20 years. The District's intention was to repay the COPs, at the earliest opportunity, from the proceeds of future general obligation bond issuances or State grants.

2011 Waiver. As the District's tax base continued to decline in 2010-11 and 2011-12, it became clear that the District would need to apply for a bonding capacity waiver to continue with its bond program. The District's Proposition 39 tax rate limitations for the 2006 Measure J bonds were somewhat alleviated between 2008-09 and 2011-12 because the debt service obligations on the outstanding bonds under the authorization declined during this time; however, the District's bonding capacity declined proportionally with the tax base creating statutory bonding capacity constraints. As described above, the District applied for a waiver of the bonding capacity requirement from the State Board of Education. The waiver was granted in January 2011, subject to two limitations: (1) the waiver would only apply through February 2018; and (2) the waiver would increase the applicable percentage to 3.58%. The focus of the waiver was solely on the upcoming financing of $60 million and did not consider the remainder of the 2010 Measure L authorization.

2011 Bond Financing. As a result of the bonding capacity waiver granted by the State Board of Education, the District was able to move forward with the issuance of $60 million in general obligation bonds in July 2011. Of the $60 million in total general obligation bonds issued, $35 million was issued under the 2006 Measure J authorization, and $25 million was issued under the

new 2010 Measure L authorization. The bond proceeds were used (a) to defease the outstanding 2009 COPs and (b) to reconstruct a new junior high school. The defeasance of the outstanding 2009 COPs allowed the District to reduce general fund obligations by approximately $1.94 million. The new junior high school allowed the District to relieve overcrowding and continue qualification for State class size reduction revenues.

Additional Considerations. The bonding capacity waiver allowed the District to move forward with these key projects through the issuance of general obligation bonds last year; however, the District has a number of additional projects remaining under the 2010 Measure L authorization, including the modernization of three elementary schools and the installation of solar projects.

> **2010 Measure L Program.** As we describe above, voters approved the 2010 Measure L bond authorization to continue with the District's overall plan to provide adequate space for all students and to ensure that the quality of such space reflects standards established by the District. With the prior bonding capacity waiver, the District was able to begin construction of the new junior high school to alleviate crowding. In the next several years, the District would like to move forward with the modernization of three elementary schools to provide better educational facilities for students at these schools and to promote intra-district equality among students. Another use of the bond proceeds were to pay for solar projects, originally financed through a COP, as described further below. The District's current plan is to issue bonds over the next several years, but the timing, sizing, and repayment structure for future bond issuances may be adjusted based on future tax base growth and other factors. **As required under Proposition 39, the District will structure the remaining authorization with the tax rate target of $60 per $100,000 in assessed value assuming reasonable tax base growth.**
>
> **2010 Certificates of Participation.** The District issued $20.51 million in Certificates of Participation in 2010 (2010 COPs) for solar projects. By moving forward with solar projects at that time, the District was able to secure California Solar Initiatives (CSI) incentives, estimated to be approximately $6 million. The financing plan was designed so that a portion of the CSI incentives will be used to offset the debt service obligations on the 2010 COPs and the remainder of the debt service obligations will be paid from the general fund from the savings generated from reducing energy costs. Given the general economic environment, the District would like to alleviate the encumbrance of the 2010 COPs on the general fund as much as possible.

Waiver Request. The District is seeking a waiver of the bonding capacity limitation in order to continue with the facilities plan developed at the time of the 2010 Measure L bond program. The District is requesting that this waiver increase the District's bonding capacity to 5.00% until December 31, 2022. Unlike the prior bonding capacity waiver, which was intended to address only the upcoming financing, this waiver request is intended to allow the District to issue the remainder of the bonds authorized under the 2010 Measure L bond authorization. In the event that the District is unable to issue bonds in an amount necessary to continue on with planned

projects prior to the term of the waiver, the District expects to submit another waiver request well enough in advance of the expiration of this current waiver to allow the bond program to proceed without interruption at that time.

Return to Statutory Bonding Capacity Level. Assuming the return of positive tax base growth and given the scheduled principal repayment of bonds (both currently outstanding and still to be issued), the amount of District debt outstanding will drop below the current statutory limit of 2.5% of the assessed value at some point in the future. When this will occur depends largely on the rate of future tax base growth. If we conservatively assume that the District issues all of the remaining authorized but unissued 2010 Measure L bonds over the next two years (which seems unlikely), and that tax base growth averages approximately 4% (or a cumulative average basis) between 2011-12 and 2022-23, the District will be within the 2.5% limitation by tax year 2022-23 (see attached Exhibit B). Exhibit C shows the District's bonding capacity levels under various tax base growth scenarios to demonstrate the sensitivity of the analysis to tax base growth assumptions.

Potential of Program Suspension. If the request is denied, the District will likely need to suspend its bond program and to proceed only to the extent that annual tax base growth and repayment of previously issued bonds allows. Such an alternative would have significant negative consequences on a number of fronts as described below.

> **Cost and Disruption.** Suspending a program that has been ongoing would have obvious cost implications. The current bidding climate for construction projects is relatively strong and the District has a construction management team and program in place. Suspending the construction plan and re-starting the program in the future would be both costly and disruptive.
>
> **Adequacy of School Facilities.** In addition to being costly and disruptive, such a suspension would mean that students would continue to be housed in facilities that are to some degree inadequate and/or unsafe and that are certainly not the equal of facilities provided to other students in the District.
>
> **Will of the People.** From a political standpoint, suspension of the program would deny voters the benefits of a program that they voted for as recently as November 2010. As we described above, voters have consistently demonstrated their support for facility improvements in the District and their willingness to pay for such improvements. At an election held in November 2010, voters were asked to authorize the issuance of bonds, they were told what the bond proceeds would fund and what the expected cost would be to taxpayers. The vote of 68.5% in favor is a clear expression of the voter's will.
>
> **Impact on Local Economy.** Suspension of the bond program would also have a negative impact on the local economy. The District's construction program employs many area residents and suspension of the program would result in significant job losses. Many economists continue to stress the importance of public agencies moving forward with construction projects during these difficult times as a means of economic stimulus.

Summary Rationale. The District is requesting this waiver because such a waiver is necessary in order for the District's construction program to move ahead without interruption or interim financing. In turn, continuation of the construction program is necessary if the District is to

provide adequate classroom space and quality school facilities for all of its students. The District notes that the construction program has been consistently supported over time by a public that is well aware of its costs and willing to pay them. Furthermore, continuing the program will

provide economic stimulus and avert job losses. The waiver will not impact the District's commitment to move ahead responsibly from a debt management perspective and to keep tax rates within legal limits.

Equity Issues. Finally, the District notes the equity issues raised by the fact that the District's statutory bonding capacity is significantly less than the statutory bonding capacities of in similarly sized local school districts. When compared against ten school districts in Alameda and Contra Costa County that serve a similar number of students, it is clear that the District's bonding capacity is relatively low. The attached Exhibit D shows all school districts in Alameda and Contra Costa Counties that have an enrollment of between 5,000 and 15,000 students, their 2011-12 tax base and statutory bonding capacity, and how their statutory bonding capacity compares to that of the District. In order to provide comparable figures, high school districts are treated as if they were unified with their feeder elementary school districts where such distinctions exist. The bottom line is that these are school districts with a similar educational charge as the District (in terms of number of students served) and similar facility costs (since they are all located in the same geographic area), but in every case have significantly more resources on which to draw in terms of local bond funding.

Conclusion. The District understands the importance of bonding capacity limitations and prudent debt management; however, given the recent tax base declines caused by the general economic climate, the District will need a waiver of bonding capacity to continue its bond program. The waiver will help the District continue its improvement of facilities so that all District students can have modernized and updated learning environments. Equity among students within the District as well as equity among students from various socio-economic areas throughout the State is an important objective. The District requests that the CDE grants this waiver so that the District can move ahead with its voter supported capital program to improve the quality and equity of educational facilities for its students without delay.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
waiver@cde.ca.gov
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to:

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Savanna Elementary School District	**Dr. Sue Johnson, Superintendent**	**sue.johnson@savsd.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
1330 South Knott Avenue Anaheim California 92804	**714.236.3805** Fax Number: **714.827.6167**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **7/1/2012** To: **7/1/2021**	**February 16, 2012**	**February 16, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **Sections 15268 and 15102** Circle One: *EC* or *CCR*

Topic of the waiver: **Exceed the bonded indebtedness limit for an elementary school district**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: NA and date of SBE Approval NA
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **February 3, 2012, February 7, 2012 and February 16, 2012**

Name of bargaining unit and representative(s) consulted:
Savanna District Teachers Association: Greg Payne, Co-President and Mary Johnson Cajiao, Co-President
CSEA Chapter #322: Robert Rainey, President and Mitch Dolberry, Vice President

The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

Comments (if appropriate): **Please see enclosed for the letters of support.**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

X Notice in a newspaper X Notice posted at each school X Other: **Notice also posted on District's website**

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Savanna Elementary School District Citizens' Oversight Committee

Date the committee/council reviewed the waiver request: **February 8, 2012**

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*
Please see enclosed for the letter of support.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code Sections 15268 and 15102

15268. The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), ~~shall not exceed 1.25 percent of the taxable property of the district~~ as shown by the last equalized assessment of the county or counties in which the district is located.

15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) ~~shall not exceed 1.25 percent of the taxable property of the school district~~ or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Savanna Elementary School District is requesting this waiver to apply to both the general obligation bond authorization previously approved by the voters in 2008 and an anticipated future general obligation bond measure to be placed on the ballot in 2012. Please see enclosed for the supporting documents and desired outcome/rationale in greater detail.

12. Demographic Information:
Savanna Elementary School District currently has a student population of **2,323** and is located in a suburban area in **Orange** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date: **February 21, 2012**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Savanna Elementary School District

Bonded Indebtedness Limit Waiver Request
Supporting Documentation

Background

On November 4, 2008, voters within the Savanna Elementary School District ("District") approved Measure N and authorized the District to issue $24.9 million in general obligation bonds ("GO Bonds") to finance the needed facilities improvements of all four (4) elementary schools in the District ("2008 Authorization"). Under Proposition 39, the affirmative vote requirement to authorize the bonds was 55%. Measure N gathered more than the required bond approval threshold with a 72.5% affirmative vote.

The District, on May 28, 2009, issued its Series A GO Bonds in the amount of $7.5 million. Additionally, the District issued the 2009 General Obligation Bond Anticipation Notes ("2009 BANs") concurrently with the Series A bond issuance. Subsequently, the 2010 General Obligation Bond Anticipation Notes ("2010 BANs") were issued on May 20, 2010. On February 9, 2012, the District issued the $12.1 million Series B GO Bonds to repay the 2009 and 2010 BANs and to fund additional school facilities projects. As of today, the District has issued $19.6 million of GO Bonds, allowing the District to complete the modernization of its Hansen Elementary School, Cerritos Elementary School, as well as various rehabilitation projects throughout the District. $5.3 million remain authorized but unissued under Measure N.

Similar to many school districts throughout the State of California ("State"), the District's overall facilities funding program has been severely impacted by the delay in matching State funding as well as the decline in local assessed valuations ("AV"). In order to ensure that the District can continue to provide the promised facilities to students, avoid any delay in ongoing construction and promote equity among District schools, the District is considering a future GO Bond measure to be placed on the ballot in 2012 ("2012 Authorization). Therefore, the District is requesting this bonded indebtedness limit waiver to apply to both the 2008 Authorization and the 2012 Authorization. For your review, enclosed please find the following supporting documentation concerning the District's waiver request.

1. Assessed Valuation History

The tables in **Enclosure 1** highlight the District’s historical AV over the past 10 years before and after the approval of the Measure N authorization on November 4, 2008. Also included in **Enclosure 2** is a 35-year AV history for the District.

2. Outstanding Bonded Indebtedness

To date, the District has issued two (2) series of GO Bonds under the 2008 Authorization, in the combined amount of $19.6 million. The District does not have other outstanding bonded indebtedness. Debt service schedules of the outstanding Series A and Series B GO Bonds are both included in **Enclosure 3**. As set forth in **Enclosure 4**, a detailed computation of bonded indebtedness components, the District's current debt ratio is 1.11% and has approximately $2.5 million in available bonding capacity.

3. 2012 Authorization

Approval of the waiver request would allow the District to issue approximately $23.0 million in GO Bonds under the proposed 2012 Authorization to complete the modernization of Reid Elementary School and the planning for Holder Elementary School. These projects are consistent with the purpose of both the approved and proposed bond measures (**Enclosure 5)**. The District understands that the increase in bonded indebtedness ratio is contingent upon the passage of the proposed measure. The District is requesting to waive its bonded indebtedness limits in order to allow flexibility and avoid any delays in its current construction program.

4. Current and Estimated Annual Tax Rates

The 2012 Authorization is anticipated to be authorized by the voters under Proposition 39. Proposition 39 imposes a statutory annual tax rate limit of $30 per $100,000 of taxable AV, the same will be pledged in the Tax Rate Statement of the proposed 2012 Authorization (**Enclosure 6**). The annual tax rate projections for both the 2008 Authorization and the proposed 2012 Authorization will be closely monitored by the District's finance team and will be updated annually. The approval of this waiver request will not result in the District issuing more than the stated tax rate and/or the authorization amount noted in the 2012 GO Bond measure. **Enclosure 7** provides the current and estimated annual tax rates with and without the anticipated 2012 Authorization.

5. Bonded Indebtedness Ratio Requested

If the waiver is approved, the District's bonded indebtedness ratio is estimated to exceed the statutory limit of 1.25% for elementary school districts to approximately 2.50% in fiscal year 2012/2013. **Enclosure 8** outlines the detailed calculations of the ratio that the District needs above the current available bonding capacity. Based on the current AV, a 5.86% average annual AV growth projected from fiscal year 2012/2013 to fiscal year 2021/2022, and the scheduled principal reduction on the outstanding and proposed GO Bonds, it is anticipated that the District's bonded indebtedness ratio will be below the statutory limit of 1.25% by fiscal year 2021/2022. Please also reference **Enclosure 8** for a detailed projection of the aforementioned.

Conclusion

The District has four (4) elementary schools, of which, Hansen Elementary School and Cerritos Elementary School were completely modernized with the voter-approved Measure N funds. Without the approval to exceed the statutory bonded indebtedness limit, the District can only stop the construction projects currently planned for the other two schools within the District, Reid Elementary School and Holder Elementary School, until its bonded indebtedness ratio is below the 1.25% statutory limit. Additionally, the District has interim facilities leased to house the students during its planned renovation of the Reid Elementary School. Plans for the modernization of Reid Elementary School were also approved by the Division of State Architect in 2011. If the waiver is not approved, the construction delay would result in considerable financial and community hardship to the District.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-15

ITEM #W-15

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Saddleback Valley Unified School District**, to waive portions of *California Education Code* Section 15282, relating to term limits for members of a Citizens' Oversight Committee for all construction bonds in the district. Waiver Numbers: Saddleback Valley Unified School District, 11-4-2012 (Renewal) Saddleback Valley Unified School District, 12-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval that five of the current seven members of the Citizens' Oversight Committee (COC) be allowed to continue for an additional two-year term with the following condition: that the renewal waiver for three of the members will end on or before May 7, 2014 and that this is the final term for these three members, and that the waiver for two of the members will end on or before July 5, 2014, so that *California Education Code* (*EC*) Section 33051(b) will not apply and the waiver will not become permanent.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all previous waivers regarding Citizens' Oversight Committees. The district is requesting to waive the same provision of the term limits of members of the Citizens' Oversight Committee.

This district meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. Saddleback Valley Unified School District has a 2011 API of 862. Therefore, this waiver will be proposed for the consent calendar.

SUMMARY OF KEY ISSUES

Under the provisions of EC sections 33050 through 33053, the Saddleback Valley Unified School District requests that specific language of EC Section 15282(a) relating to term limits for members of a COC be waived. The purpose of the COC is to inform the public concerning the expenditure of bond revenues. The COC reviews and reports

on the proper expenditure of taxpayers' money for school construction. The COC holds public meetings and advises the public as to whether the district is in compliance with all of the statutory requirements of the bond and school construction projects.

The extension of time would allow the continued participation of these five experienced members and will aid the district in its efforts to successfully manage the final phase of the building program and would reserve continuity and provide advice and guidance of the Bond Oversight Committee and the district.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: COC members requesting extension (1 page).

Attachment 2: Summary Table (1 page).

Attachment 3: Saddleback Valley Unified School District General Waiver Request (2 pages). (Original waiver request if signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Saddleback Valley Unified School District General Waiver Request (2 pages). (Original waiver request if signed and on file in the Waiver Office.)

Citizens' Oversight Committee Member Appointments

The following members were originally appointed May 11, 2004. Their current term will expire May 9, 2012.

Donald Frolich
Representing: Community at Large
Senior Citizens Organization, Active in a bona fide taxpayers' organization

Ernestine Jones
Representing: Community at Large
Active in a business organization representing the business community within the district.

Nikki Meyers
Representing: Community at Large
Active in a business organization representing the business community within the district. A representative from the property and facilities management community.

The following members were originally appointed July 8, 2008. Their current term will expire July 7, 2012.

Mauricio Escobar
Representing: Parent

Stuart Luce
Representing: Active in senior citizens' organization

SUMMARY TABLE								
Waiver Number	School District	Period of Request	Local Board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted - Date	Streamlined Waiver Policy
11-4-2012	Saddleback Valley Unified School District	**Requested:** May 9, 2012 – May 8, 2014 **Recommended:** May 9, 2012 – May 7, 2014	April 3, 2012	April 3, 2012	Saddleback Valley Educators Association (SVEA) – 4/30/12 California School Employees Association (CSEA) – 4/30/12	SVEA – Support CSEA – Support	Citizens' Oversight Committee – 2/16/12 No objections	Yes, 862
12-4-2012	Saddleback Valley Unified School District	**Requested:** July 7, 2012 – July 7, 2014 **Recommended:** July 7, 2012 – July 5, 2014	April 3, 2012	April 3, 2012	Saddleback Valley Educators Association (SVEA) – 4/30/12 California School Employees Association (CSEA) – 4/30/12	SVEA – Support CSEA – Support	Citizens' Oversight Committee – 2/16/12 No objections	Yes, 862

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___

Renewal Waiver: __X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

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Local educational agency: **Saddleback Valley Unified School District**	Contact name and Title: **Kathryn Boylan** Secretary, Facilities	Contact person's e-mail address: **boylank@svusd.org**
Address: (City) (State) (ZIP) **25631 Peter A. Hartman Way Mission Viejo CA 92691**		Phone (and extension, if necessary): **(949) 580-3374** Fax Number: **(949) 581-2813**
Period of request: (month/day/year) From: **May 9, 2012** To: **May 8, 2014**	Local board approval date: (Required) **April 3, 2012**	Date of public hearing: (Required) **April 3, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **15282 (a)** Circle One: (*EC*) or *CCR*

   Topic of the waiver: **Term Limits for Citizen's Oversight Committee**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **7-1-2010-WC-18** and date of SBE Approval **5/6/10**

   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No ☒ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): SVEA (9/17/07)
   CSEA (8/22/07

   Name of bargaining unit and representative(s) consulted: **Saddleback Valley Educators Association (SVEA)**
   California School Employees Association (CSEA)

   The position(s) of the bargaining unit(s): __ Neutral ☒ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ☒ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: **Citizen's Oversight Committee**

   Date the committee/council reviewed the waiver request: **February 16, 2012**

   Were there any objection(s)? No ☒ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Under the provisions of *Education Code* sections 33050-33053, the Saddleback Valley Unified School District requests that specific language of a subsection of the *Education Code*, relating to term limits for COC members, be waived as follows:

Section 15282 (a). *The Citizens' Oversight Committee shall consist of at least seven members to serve for a term of two years*

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The purpose of the Citizens' Oversight Committee (COC) is to inform the public concerning the expenditure of bond revenues. The COC reviews and reports on the proper expenditure of taxpayers' money for school construction. The COC holds quarterly public meetings and advises the public as to whether the District is in compliance with the statutory requirements of the bond and school construction project(s).

The District wants to retain, for an additional two-year term, three (3) of its original (10) COC members. These three members were initially appointed on May 11, 2004 by the District's Governing Board after the passage of a General Obligation Bond, Measure B, in March 2004. Their fourth two-year term will expire on May 9, 2012.

The current Citizens' Oversight Committee members have been of particular value to our extensive construction and modernization program, and the loss of three members after a six-year (individual by member) term is not in the best interest of the oversight process. Their institutional memory of the bond process and all construction activity is an invaluable asset to the District as a whole. It would be a difficult transition period and a loss of continuity if all members were termed out. The continued participation of these experienced members will aid in reaching the completion of our successful construction and modernization program. By allowing three members of the COC to serve an additional two-year term, SVUSD believes it can finish managing Measure B bond expenditures with prudence and accountability. There is no state fiscal impact.

Original members requesting an extended term:
Donald Froelich – Ernestine Jones – Nikki Meyers

8. Demographic Information:
Saddleback Valley Unified School District has a student population of **35,000** and is located in an **urban area** in **Orange** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Geri Partida	Assistant Superintendent, Business Services	4/5/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	7	3	6	3	5

Local educational agency: **Saddleback Valley Unified School District**	Contact name and Title: **Kathryn Boylan** Secretary, Facilities	Contact person's e-mail address: **boylank@svusd.org**
Address: (City) (State) (ZIP) **25631 Peter A. Hartman Way Mission Viejo CA 92691**		Phone (and extension, if necessary): **(949) 580-3374** Fax Number: **(949) 581-2813**
Period of request: (month/day/year) From: **July 7, 2012** To: **July 7, 2014**	Local board approval date: (Required) **April 3, 2012**	Date of public hearing: (Required) **April 3, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **15282 (a)** Circle One: (*EC*) or *CCR*

   Topic of the waiver: **Term Limits for Citizen's Oversight Committee**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval __

   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No ☒ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): SVEA (9/17/07)
   CSEA (8/22/07

   Name of bargaining unit and representative(s) consulted: **Saddleback Valley Educators Association (SVEA)**
   California School Employees Association (CSEA)

   The position(s) of the bargaining unit(s): __ Neutral ☒ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ☒ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: **Citizen's Oversight Committee**

   Date the committee/council reviewed the waiver request: **February 16, 2012**

   Were there any objection(s)? No ☒ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. Education Code or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Under the provisions of *Education Code* sections 33050-33053, the Saddleback Valley Unified School District requests that specific language of a subsection of the *Education Code*, relating to term limits for COC members, be waived as follows:

Section 15282 (a). *The Citizens' Oversight Committee shall consist of at least seven members to serve for a term of two years*

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The purpose of the Citizens' Oversight Committee (COC) is to inform the public concerning the expenditure of bond revenues. The COC reviews and reports on the proper expenditure of taxpayers' money for school construction. The COC holds quarterly public meetings and advises the public as to whether the District is in compliance with the statutory requirements of the bond and school construction project(s).

The District wants to retain, for an additional two-year term, two (2) current COC members. These two members were initially appointed on July 8, 2008 by the District's Governing Board after the passage of a General Obligation Bond, Measure B, in March 2004. Their second two-year term will expire on July 7, 2012.

The current Citizens' Oversight Committee members have been of particular value to our extensive construction and modernization program, and the loss of two members after a four-year (individual by member) term is not in the best interest of the oversight process. Their institutional memory of the bond process and all construction activity is an invaluable asset to the District as a whole. It would be a difficult transition period and a loss of continuity if all members were termed out. The continued participation of these experienced members will aid in reaching the completion of our successful construction and modernization program. By allowing two members of the COC to serve an additional two-year term, SVUSD believes it can finish managing Measure B bond expenditures with prudence and accountability. There is no state fiscal impact.

Members requesting an extended term:
Mauricio Escobar – Stuart Luce

8. Demographic Information:
Saddleback Valley Unified School District has a student population of **35,000** and is located in an **urban area** in **Orange** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Geri Partida	Assistant Superintendent, Business Services	4/5/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-16

ITEM #W-16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Bonsall Union Elementary School District** to waive portions of California *Education Code* Section 35100 and all of 35101, to allow for the appointment of an interim board to serve the newly unified district prior to election of a new governing board. Waiver Number: 8-5-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) approved a similar waiver request by the Inyo County Office of Education at the January 2010 SBE meeting.

Also, this district meets the criteria for the SBE Streamlined Waiver Policy, http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. Bonsall Union Elementary School District (UESD) has a 2011 Growth API of 877.

SUMMARY OF KEY ISSUES

The Bonsall UESD requests that the SBE waive California *Education Code* (*EC*) Section 35101 and portions of *EC* Section 35100 to allow the San Diego County Superintendent of Schools (County Superintendent) to appoint an interim governing board for a newly formed Bonsall unified school district. *EC* Section 35100 requires a county superintendent of schools to appoint an interim governing board for any newly formed *elementary* or *high school* district. The terms of the members on this interim board expire upon election of a new governing board for the district. However, *EC* Section 35101 does not provide for an interim governing board of a newly formed *unified* school district prior to election of the first governing board of the district.

A related item on the July 2012 SBE agenda (Bonsall unification proposal), if approved by the SBE, would allow the formation of a new Bonsall unified school district to go to a local election. Pursuant to *EC* Section 5322, a unification proposal must be approved by the SBE at least 88 days prior to the date of an election—thus, SBE approval of the Bonsall unification proposal at the July SBE meeting would allow the proposal to be on the November 2012 ballot. However, *EC* Section 5322 also requires at least 123 days

before a governing board election can be on a ballot—thus, the election for the new governing board of the Bonsall unified school district could not be on November 2012 ballot if the SBE approves the unification proposal.

If voters approve the unification proposal at the November 2012 election, the new district would be effective on July 1, 2013. Pursuant to California *Elections Code* Section 1000, the next available dates for an election of a new governing board are March 5 and June 4 in 2013, with the new governing board not taking office until certification of the election results (which could be a number of weeks after the election). Thus, there would little time for the new board to plan for the new district. Any planning (e.g., hiring a superintendent, adopting an interim budget, acquiring interim funding, developing a district management plan, consolidating elementary and secondary education programs) likely would be done by the current board of the Bonsall UESD. Approval of the waiver request would ensure continuity between the planning and the implementation of the plans.

If the waiver request is approved, the County Superintendent would appoint the interim governing board within 15 days of voter approval of the unification proposal. The terms of each member on this interim board will expire following certification of the results of a November 2014 election of the first governing board of the district. The County Superintendent supports this request, stating that approval of the waiver request "would support the fiscal stability of the District and provide consistency and continuity in the District's educational program." The County Superintendent further stated that it is his intention to appoint the governing board of the Bonsall UESD as the new board of the Bonsall unified school district.

The California Department of Education (CDE) believes that none of the grounds specified in *EC* Section 33051 that authorize denial of a waiver exist. The CDE recommends that the SBE approve the waiver request.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

Demographic Information: The Bonsall UESD has a student population of 2,006 and is located in a small residential and farming community in San Diego County.

Period of request: November 1, 2012, to October 30, 2014 (requested)
July 19, 2012, to July 1, 2013 (recommended)

Local board approval date(s): April 19, 2012

Public hearing held on date(s): April 19, 2012

Bargaining unit(s) consulted on date(s): California School Employees' Association (CSEA): April 18, 2012; Bonsall Teachers' Association (BTA): April 5, 2012.

Name of bargaining unit/representative(s) consulted: CSEA: Teresa Suarez, President; Lenore Trombetta, Vice-president; Salley Malec: Secretary; Theresa Covarrubias, Member. BTA: James Bursvold, President; John Bossaller, Bargaining Chairman.

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ other (specify): District Website

Advisory committee(s) consulted: Indian Education Committee (IEC); Bonsall Elementary, Bonsall West Elementary, and Sullivan Middle school site councils; English Language Advisory Committee (ELAC); District ELAC.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: IEC: April 15, 2012; School Site Councils: April 16, 2012; ELAC/District ELAC: April 3, 2012.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver request will not have negative fiscal effects on any local or state agency. Failure to approve the waiver request will result in the additional costs to the district for an election for the first governing board of the new district.

ATTACHMENT(S)

Attachment 1: Bonsall Union Elementary School District (8-5-2012) General Waiver Request. (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x_
Renewal Waiver ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	7	9	7	5

Local educational agency: Bonsall Union Elementary School District	Contact name and Title: Justin Cunningham, Ed.D., Superintendent		Contact person's e-mail address: bsdsup@gmail.com
Address: (City) (State) (ZIP) 31505 Old River Road Bonsall CA 92003			Phone (and extension, if necessary): 760-631-5200 x1001 Fax Number: 760-941-4409
Period of request: (month/day/year) From: 11/1/2012 To: 10/30/2014	Local board approval date: (Required) April 19, 2012		Date of public hearing: (Required) April 19, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): portions of 35100 ; 35101 Circle One: *EC* or *CCR*
Topic of the waiver: Waiver of Election for Initial Governing Board; appointment of Interim Board

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 18, 2012 (CSEA); April 5, 2012 (BTA)

Name of bargaining unit and representative(s) consulted:
CSEA, Chapter #703: Teresa Suarez, President; Lenore Trombetta, V.P.; Salley Malec, Secretary; Theresa Covarrubias, Member
Bonsall Teachers Association: James Bursvold, President; John Bossaller, Bargaining Chairman

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (Please specify why)
Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_x__ Notice in a newspaper _x__ Notice posted at each school __x_ Other: *(Please specify)* District Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request:
Indian Education Committee: April 5, 2012
School Site Council Bonsall Elementary: April 16, 2012
School Site Council Bonsall West Elementary: April 16, 2012
School Site Council Sullivan Middle School: April 16, 2012
ELAC/DELAC: April 3, 2012

Were there any objection(s)? No x Yes *(If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Waiver of election for initial governing board

35100. Within 15 days after the action necessary for the formation of any ~~elementary school district or high~~ school district is completed, the county superintendent of schools shall appoint an interim governing board.

Within 15 days after the action necessary for the formation of any joint ~~or joint union elementary school or high~~ school district is completed, the county superintendent of schools having jurisdiction over the district shall appoint a majority of the members of an interim governing board. If the new district is in two counties, the other county superintendent shall appoint the rest of the interim governing board members within such 15-day period. If the new district is in more than two counties, the other county superintendents shall appoint the rest of the interim governing board members within such 15-day period as may be agreed upon by them. If they cannot agree within such 15-day period, the county superintendent who appointed the majority of the interim governing board members shall appoint the rest of the members.

~~The term of each governing board member so appointed shall expire on the April 1st following the election of the first elected governing board of the district.~~

If a majority of the members of the interim governing board of the school district is not appointed and qualified within such 15-day period, the county superintendent of schools having the power to appoint the interim governing board, or a majority thereof, shall assume the powers and duties belonging to the governing board until a majority of the governing board is selected and qualified.

~~35101. In newly formed unified school districts there shall be no interim governing board, but the county superintendent of schools having jurisdiction over the particular district shall call an election for the purpose of choosing the first governing board of the district.~~

~~The election shall be held on the first Tuesday after the first Monday in March, June, or November next succeeding the call. The first members of the governing board of the district shall take office on the day the canvass of the election is certified by the county superintendent of schools. The first meeting of the governing board shall be called by the county superintendent of schools not later than the third Monday following the election. The term of office of subsequent members of the board shall begin on April 1st following their election.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Bonsall Union Elementary School District is requesting to waive portions of California *Education Code* Section 35100 and all of 35101, to allow for the appointment of an interim board to serve the newly unified district prior to election of a new governing board. This waiver will allow for the appointment of a board to serve the new unified district, if becoming effective as a result of the November 2012 ballot. Without the waiver, there can be no board in place to plan for the implementation of the new district until after the district is actually in effect. This waiver will also allow for an elected board to begin service following a November 2012 election. With this waiver, transition planning for the new district will occur to ensure continuity, and provide quality educational programs via the new unified district.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

8. Demographic Information:
Bonsall Elementary School District has a student population of 2006 and is located in a small residential and farming community in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No x Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No x Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 19, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-17

ITEM #W-17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by four districts to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas. Waiver Numbers: Exeter Union School District 13-5-2012 Exeter Union High School District 12-5-2012 Sunnyside Union Elementary 4-4-2012 Washington Colony Elementary 7-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous similar waiver requests during the past three years—the most recent ones were waiver requests for 19 school districts that were approved at the May 9, 2012, SBE meeting.

SUMMARY OF KEY ISSUES

Approval of these waiver requests would eliminate the election requirement for approval of trustee areas and a by-trustee-area method of election for future governing board elections in the listed school districts. Voters in the districts will continue to elect all board members—however, should the waivers be approved, all board members will be elected by trustee areas, beginning with the next regular board elections.

The county committee on school district organization (county committee) has the authority to approve or disapprove the adoption of trustee areas and methods of election for school district governing board elections. Pursuant to California *Education Code* (*EC*) Section 5020, county committee approval of trustee areas and methods of elections constitutes an order of election; thus, voters in the district have final approval over these changes.

A number of districts in California are facing existing or potential litigation under the California Voting Rights Act of 2001 over their at-large election methods. For protection from potential litigation, the school districts are taking action to establish new trustee areas and adopt by-trustee-area methods of election for the governing boards. In order to establish these trustee areas and the methods of election as expeditiously as

possible, the districts are requesting that the SBE waive the requirement that the trustee areas and the election methods be approved at district-wide elections.
These waiver requests have been reviewed by California Department of Education (CDE) staff and a determination has been made that: (1) the waivers were initiated by resolutions of the governing boards; and, (2) there was no significant public opposition to the waivers at the public hearings held by the governing boards.

Only the election to establish trustee areas and election method will be eliminated by approval of the waiver request—voters in the school district will continue to elect all governing board members. Moreover, approval of the waivers will not eliminate any existing legal rights of currently seated board members.

The CDE finds that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends that the SBE approve the requests by the school districts to waive *EC* Section 5020 in its entirety and portions of *EC* sections 5019, 5021, and 5030.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver requests will not have negative fiscal effects on any local or state agency. Failure to approve the waiver requests will result in the additional costs to the districts for a district-wide election.

ATTACHMENT(S)

Attachment 1: Trustee area election waivers (2 pages).

Attachment 2: California *Education Code* sections to be waived (4 pages).

Attachment 3: Exeter Union School District (13-5-2012) General Waiver Request for Trustee Area Elections (4 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Exeter Union High School District (12-5-2012) General Waiver Request for Trustee Area Elections (4 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Sunnyside Union Elementary School District (4-4-2012) General Waiver Request for Trustee Area Elections (6 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Washington Colony Union Elementary School District (7-3-2012) General Waiver Request for Trustee Area Elections (4 Pages). (Original waiver request is signed and on file in the Waiver Office.)

Trustee Area Election Waivers

Districts requesting waivers of elections to establish trustee areas—
all of Education Code Section 5020; portions of sections 5019, 5021 and 5030

Waiver Number	District	SBE Stream-lined Waiver Policy	Period of Request/ Period Recommended	Demographic Information	Local Board Public Hearing and Approval Date(s)	Bargaining Unit/Representatives Consulted and Dates/Position	Advisory Committees Consulted and Dates	Public Hearing Advertisement
13-5-2012	Exeter Union School District	Does not meet	**Requested:** 7/18/2012 through 7/17/2014; **Recommended:** 7/18/2012 through 7/16/2014;	Exeter Union (Elementary) School District has a student population of 13,492 and is located in a small city in Tulare County	**Public hearings**: 7/20/11, 8/23/11, 10/25/11; **Approval**: 11/22/11	California School Employees' Association, Margarita Reed, President, 10/27/2011: **Support**; Exeter Elementary Teachers' Association, Diana Lemus, Vice-president, 11/1/2011: **Support**	Lincoln, Rocky Hill, and Wilson Middle school site councils; District Management Team; District English Language Advisory Committee; District Migrant Advisory Committee: all on 9/19/2011. No objections were raised.	Notice in a newspaper; Notice posted at each school; Notice posted on District website.
12-5-2012	Exeter Union High School District	Does not meet	**Requested:** 7/18/2012 through 7/17/2014; **Recommended:** 7/18/2012 through 7/16/2014;	Exeter Union High School District has a student population of 16,923 and is located in a small city in Tulare County	**Public hearings**: 7/20/11, 8/17/11, 10/19/11; **Approval**: 11/16/11	California School Employees' Association, Margarita Reed, President, 10/27/2011: **Support**; Exeter Elementary Teachers' Association, Darin Lasky, President, 11/1/2011: **Support**	Exeter Union High School Site Council; District Management Team; District English Language Advisory Committee; District Migrant Advisory Committee: all on 9/19/2011. No objections were raised.	Notice in a newspaper; Notice posted at each school; Notice posted on District website.

Waiver Number	District	SBE Stream-lined Waiver Policy	Period of Request/ Period Recommended	Demographic Information	Local Board Public Hearing and Approval Date(s)	Bargaining Unit/Representatives Consulted and Dates/Position	Advisory Committees Consulted and Dates	Public Hearing Advertisement
4-4-2012	Sunnyside Union Elementary School District	Does not meet	**Requested:** 2/1/2012 through 1/31/2014; **Recommended:** 2/1/2012 through 1/30/2014	Sunnyside Union Elementary School District has a student population of 371 and is located in a small city in Tulare County.	2/22/2012	California School Employees' Association, Lee Coehlo, Regional Representative, 2/12/2012: **Neutral**; California Teachers' Association, Wendy Hernandez, President, 2/12/2012: **Neutral**	School Site Council: 3/8/2012; Reorganization Committee: 3/23/2012. No objections were raised.	Notice posted at each school; Notice posted at three public places in the community.
7-3-2012	Washington Colony Elementary School District	Does not meet	**Requested:** 1/1/2012 through 12/31/2012; **Recommended:** 1/1/2012 through 12/30/2013	Washington Colony Elementary School District has a student population of 416 and is located in a rural area in Fresno County.	**Public hearing**: 1/24/2012; **Approval**: 2/14/2012	Washington Colony Teachers' Association, Kim Davis, Representative, and Joanne Sweet, Representative, 2/12/2012: **Support**	English Learner Advisory Council, School Site Council, El Consejo Asesor de Aprendices de Inglés de la Escuela Primaria Washington Colony: all on 1/18/2012. No objections were raised.	Notice posted at each school; Notice posted at three public places in the school district.

Prepared by California Department of Education

Education Code or *California Code of Regulations* section(s) to be waived

Request to waive the following sections and portions of the *Education Code* lined out below:

§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the~~ boundaries of trustee areas for a particular district, then the ~~rearrangement of the~~ trustee areas shall be effectuated for the next district election ~~occurring at least 120 days after its approval, unless at least 5 percent of the registered~~

~~voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters~~.

~~§ 5020. Presentation of proposal to electors~~

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert~~

~~name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--No."~~
~~If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

§ 5021. Incumbents to serve out terms despite approval of change

(a) If a proposal for the establishment of trustee areas formulated under Section~~s~~ 5019 ~~and 5020~~ is approved ~~by a majority of the voters voting at the election~~, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established ~~at such election~~ which are not represented in the membership

of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by ~~a majority of the voters voting on the measure, or by~~ the county committee on school district organization ~~when no election is required~~, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved ~~by a majority of the voters voting at the election~~, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

§ 5030. Alternate method of election

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization and the registered voters of a district, pursuant to Section~~s~~ 5019 ~~and 5020~~, respectively, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000,~~ the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district~~, other than a community college district,~~ amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST *First Time Waiver: _X_*

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Renewal Waiver: ___

Send Original plus one copy to:

Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and

back-up material to: waiver@cde.ca.gov

CD CODE

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Exeter Union School District	**Renee Whitson**	

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
134 South E Street	**Exeter**	**CA**	**93221**	**(559) 592-9421 x:210** Fax Number: **(559) 592-9445**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **7/18/12** To: **7/17/14**	**11/22/11**	**7/20/11, 8/23/11, and 10/25/11**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **EC 5020 & portions of 5019, 5021, and 5030** Circle One: (*EC*) or *CCR*

   Topic of the waiver: **waiver of elections requirement for change to by-trustee area elections.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **_N/A_** and date of SBE Approval **_N/A_**
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **CSEA Ch. 15 – September 19, 2011**
   EETA – September 19, 2011

   Name of bargaining unit and representative(s) consulted: **See attached.—CDE Note: Letters not included**
   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate): **see attached letters of support. .—CDE Note: Letters not included**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper **X** Notice posted at each school **X** Other: *(Please specify)* **Posted on District website**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: **9/19/11**

   Were there any objection(s)? No **X** Yes ___ (*If there were objections please specify)*

   See attached letters of support.—CDE Note: Letters not included

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attached.—CDE Note: Information contained in Attachment 2 of General Waiver

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See Attached.

8. Demographic Information:
(*District/school/program)* **District** has a student population of **13,492** and is located in a (*urban, rural, or small city etc.)* **small city** in **Tulare** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Attorney for Exeter Union School District	Date: 5/4/12

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Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment B

7. Desired Outcome/Rationale

Currently, each of the Exeter Union School District's ("District") five (5) school board members are elected at large.

On October 27, 2009, the Board voted to change from at-large elections to by-trustee area elections beginning with the 2012 election. This change would require trustees to live in designated trustee areas and be elected only by voters residing in their trustee area, not by all voters voting at-large. This decision was made based on an effort to ensure compliance with the California Voting Rights Act and to help prevent the District from being entangled in costly lawsuits that other cities and districts have faced.

The District requests that the State Board of Education grant a waiver of the requirement for a local election to approve the change in the manner of electing school board members (e.g. from at-large elections to by-trustee area elections). This requirement is contained primarily in Education Code section 5020. (See attachment A).

The waiver was approved by the Tulare County Committee on School District Reorganization. If the waiver is approved by the State Board of Education, a local election will not be held: the system for electing trustees would change pursuant to the District's Resolution adopted on October 27, 2009to change to by-trustee area elections for implementation during the November 2012 elections.

The board conducted public hearings on these issues on July 20, 2011, August 23, 2011, and October 25, 2011. The Board approved final trustee area maps by Resolution dated November 22, 2011, for presentation to the Tulare County Committee on School District Reorganization in late 2012.

The final trustee area maps will be forwarded to the Tulare County Elections Office in time for implementation during the November 2012 elections.

There was no opposition to the District's plan at the public hearings held by the Governing Board on July 20, 2011, August 23, 2011, and October 25, 2011, regarding the change to by-trustee area elections and the request for SBE's waiver of the election requirement. No community members, bargaining unit representatives, or other interested persons have opposed the waiver or the change to by-trustee area elections. The Governing Board of Exeter Union School District has determined that the public interest would be better served if trustees were elected by-trustee areas and makes the following points in support of the waiver:

1. Selecting trustees in by-trustee area elections enhances the opportunity for representation on the Board of all communities within the District.

2. Selecting trustees in by-trustee area election will enhance the ability for a greater number of candidates to run for seats on the school board by reducing the costs associated with running for election district wide.

3. The current electoral system leaves the District vulnerable to attack under the California Voting Rights Act. If not waived and if the Governing Board's measure to move to by-trustee area elections is defeated at an election, the District would continue to be vulnerable to a legal challenge regarding the establishing of by-trustee area elections.

4. The decision to change to by-trustee area elections and to request this waiver was supported unanimously by the Governing Board.

5. There has been no opposition to the plan. The District encouraged the community to be involved in drafting the trustee area maps.

6. The Governing Board of the Exeter Union School District represents the electorate, and has resolved to adopt by-trustee area elections and to request this waiver.

7. A copy of the District's resolution dated November 22, 2011 is attached.

The conditional waiver of the election requirement will ensure that the District proceeds in the most efficient and cost-effective manner, and is protected from legal challenges. Approval of the waiver request will not remove the requirement that any future District governing board member be elected by voters in the district. The waiver only eliminates the requirement that an election be held to determine the method by which future board members will be elected.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST *First Time Waiver: _X_*

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Renewal Waiver: ___

Send Original plus one copy to:

Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and

back-up material to: waiver@cde.ca.gov

CD CODE						

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Exeter Union High School District	**Renee Whitson**	RWhitson@exeter.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
134 South E Street	**Exeter**	**CA**	**93221**	**(559) 592-9421 x:210**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **7/18/12** To: 7**/17/14**	**11/16/11**	**7/20/11, 8/17, and 10/19/11**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **EC 5020 & portions of 5019, 5021, and 5030** Circle One: (*EC*) or *CCR*

   Topic of the waiver: **waiver of elections requirement for change to by-trustee area elections.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **_N/A_** and date of SBE Approval **_N/A_**
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **CSEA Ch. 15 – September 19, 2011**
   EHTA – September 19, 2011

   Name of bargaining unit and representative(s) consulted: **See attached. .—CDE Note: Letters not included**

   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate): **see attached letters of support. .—CDE Note: Letters not included**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper **X** Notice posted at each school **X** Other: *(Please specify)* **Posted on District website**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: **11/7/11**

   Were there any objection(s)? No **X** Yes ___ (*If there were objections please specify)*

   See attached letters of support.—CDE Note: Letters not included

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attached.—CDE Note: Information contained in Attachment 2 of General Waiver

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See Attached.

8. Demographic Information:
(*District/school/program)* **District** has a student population of **16,293** and is located in a (*urban, rural, or small city etc.)* **small city** in **Tulare** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Attorney for Exeter Union High School District	Date: 5/4/12

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment B

7. **Desired Outcome/Rationale**

Currently, each of the Exeter Union High School District's ("District") five (5) school board members are elected at large.

On September 16, 2009, the Board voted to change from at-large elections to by-trustee area elections beginning with the 2012 election. This change would require trustees to live in designated trustee areas and be elected only by voters residing in their trustee area, not by all voters voting at-large. This decision was made based on an effort to ensure compliance with the California Voting Rights Act and to help prevent the District from being entangled in costly lawsuits that other cities and districts have faced.

The District requests that the State Board of Education grant a waiver of the requirement for a local election to approve the change in the manner of electing school board members (e.g. from at-large elections to by-trustee area elections). This requirement is contained primarily in Education Code section 5020. (See attachment A).

If the waiver is approved by the State Board of Education and the change to by-trustee area elections is approved by the Tulare County Committee on School District Reorganization, a local election would not be held: the system for electing trustees would change pursuant to the District's Resolution adopted on September 16, 2009 to change to by-trustee area elections for implementation during the November 2012 elections.

The board conducted public hearings on these issues on July 20, 2011, August 17, 2011, and October 19, 2011. The Board approved final trustee area maps by Resolution dated November 16, 2011, for presentation to the Tulare County Committee on School District Reorganization on March 20, 2012.

The maps were approved by the County Committee, and the change in voting procedures and the final trustee area maps will be forwarded to the Tulare County Elections Office in time for implementation during the November 2012 elections.

There was no opposition to the District's plan at the public hearings held by the Governing Board on July 20, 2011, August 17, 2011, and October 19, 2011, regarding the change to by-trustee area elections and the request for SBE's waiver of the election requirement. No community members, bargaining unit representatives, or other interested persons have opposed the waiver or the change to by-trustee area elections. The Governing Board of Exeter Union High School District has determined that the public interest would be better served if trustees were elected by-trustee areas and makes the following points in support of the waiver:

8. Selecting trustees in by-trustee area elections enhances the opportunity for representation on the Board of all communities within the District.

9. Selecting trustees in by-trustee area election will enhance the ability for a greater

number of candidates to run for seats on the school board by reducing the costs associated with running for election district wide.

10. The current electoral system leaves the District vulnerable to attack under the California Voting Rights Act. If not waived and if the Governing Board's measure to move to by-trustee area elections is defeated at an election, the District would continue to be vulnerable to a legal challenge regarding the establishing of by-trustee area elections.

11. The decision to change to by-trustee area elections and to request this waiver was supported unanimously by the Governing Board.

12. There has been no opposition to the plan. The District encouraged the community to be involved in drafting the trustee area maps.

13. The Governing Board of the Exeter Union High School District represents the electorate, and has unanimously resolved to adopt by-trustee area elections and to request this waiver.

14. A copy of the District's resolution dated November 16, 2011 is attached.

The conditional waiver of the election requirement will ensure that the District proceeds in the most efficient and cost-effective manner, and is protected from legal challenges. Approval of the waiver request will not remove the requirement that any future District governing board member be elected by voters in the district. The waiver only eliminates the requirement that an election be held to determine the method by which future board members will be elected.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST *First Time Waiver:* _**X**_

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	2	1	8	1

Local educational agency: **SUNNYSIDE UNION SCHOOL DISTRICT**	Contact name and Title: **STEVE TSUBOI** **SUPERINTENDENT**	Contact person's e-mail address: **stsuboi@sunnyside.k12.ca.us**
Address: **21644 AVENUE 196** (City) **STRATHMORE** (State) **CA** (ZIP) **93267**		Phone (and extension, if necessary): **559/568-1741** Fax Number: **559/58-0291**
Period of request: (month/day/year) From: **2/1/2012** To: **1/31/2014**	Local board approval date: (Required) **FEBRUARY 22, 2012**	Date of public hearing: (Required) **FEBRUARY 22, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: **WAIVER OF ELECTORAL REQUIREMENTS OF EDUCATION CODE §§ 5019, 5020 AND 5030 TO ESTABLISH TRUSTEE AREAS AND ADOPT A BY-TRUSTEE AREA ELECTORAL PROCESS**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **N/A** and date of SBE Approval **N/A**
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X Yes** If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **CTA ~ FEB. 12, 2012**
   CSEA ~ FEB. 12, 2012

   Name of bargaining unit and representative(s) consulted: **WENDY HERNANDEZ, CTA PRESIDENT**
   LEE COEHLO, CSEA REGIONAL REPRESENTATIVE

   The position(s) of the bargaining unit(s): _**X**_ **Neutral** __ Support __ Oppose (*Please specify why*)
   CTA & CSEA

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* **Posted at three public places in the community**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   SEE ATTACHMENT A HERETO
   Date the committee/council reviewed the waiver request: **SEE ATTACHMENT A HERETO**

   Were there any objection(s)? **No** _**X**_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

SEE ATTACHMENT A HERETO—CDE Note: Information contained in Attachment 2 of General Waiver

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Pursuant to EC § 5019(a), the Tulare County Committee on School District Organization ("County Committee") has the authority to approve or disapprove Sunnyside Union School District's adoption of by-trustee area elections. The District adopted a resolution applying to the County Committee to authorize a change of election for the November 2012 election. On March 26, 2012, the County Committee approved the change to the District's electoral system and a specific trustee area plan. The approval of by-trustee area elections by the County Committee would normally constitute an order of election (EC § 5020); however, a waiver of the election requirement by SBE would allow for the adoption and subsequent implementation of by-trustee area elections without a local election. Also, the subsequent approval of a specific trustee area plan would normally be subject to a referendum period, but if qualified such a referendum would preclude by-trustee area elections in 2012. [See Attachment C and Sunnyside Union School District Resolution No. 268, attached hereto [approving the waiver application].]

8. Demographic Information:
SUNNYSIDE UNION SCHOOL DISTRICT has a student population of **371** and is located in a ***small city*** in **TULARE** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **SUPERINTENDENT**	Date: **APRIL 2, 2012**

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A

Consultation With School Site Councils/Advisory Committees

Consulted Body	Date	Position
School Site Council	March 8, 2012	No Objections
Reorganization Committee	March 23, 2012	No Objections

Attachment C

7. Desired Outcome/Rationale

The waiver of the election requirements in sections 5019(d) and 5020 will enable the Sunnyside Union School District ("SUSD" or "District") to implement a new "by-trustee area" electoral system for its November 2012 elections, will ensure that the District proceeds in the most efficient and cost-effective manner, and will help protect the District from legal challenges. Approval of the waiver request will not remove the requirement that any future District governing board member be elected by voters in the District. The waiver only eliminates the requirement that an election be held to determine the method by which future board members will be elected.

The Central Valley has recently become an epicenter of potential litigation under the California Voting Rights Act of 2002, codified at sections 14025–14032 of the California Elections Code ("CVRA"). The CVRA enables voters to challenge "at-large" electoral systems in which elections are characterized by "racially-polarized voting." As importantly, it authorizes mandatory attorneys' fee and expert fee awards to successful plaintiffs.

Litigation under the Act has resulted in fee awards as high as 7 figures: The City of Modesto defended against a suit under the CVRA and ended up paying $3 million to plaintiffs' attorneys, in addition to $1.7 million to its own attorneys. While that case involved an appeal and (unsuccessful) petitions for review and certiorari to the California and U.S. Supreme Courts, the $4.7 million did not include any costs for an actual trial, as the case never reached that state, settling before that time. In 2008, Madera Unified was sued under the CVRA, and after six weeks of uncontested litigation was served with a fee demand of $1.2 million. Though that number was substantially reduced by the courts, Madera Unified will still pay fees and costs exceeding $200,000,1 and other jurisdictions continue to face substantial fee demands.

In recent years, two nearby jurisdictions have been sued under the CVRA—the Tulare Local Healthcare District settled a suit for $500,000 in 2010, and agreed to put the question of changing its electoral system to the voters; the City of Tulare likewise settled a suit, agreeing to put a similar question to its voters, and to pay plaintiffs' attorneys' fees (rumored to be in the range of $250,000). Faced with this spate of litigation, several of SUSD's neighboring districts have adopted by-trustee elections under Education Code § 5030(b). In a by-trustee area system of election, candidates for a district's governing board must reside within a specific geographic subarea of the district called a "trustee area" and candidates are elected only by the voters of that trustee area. They have done so under threat of litigation under the CVRA. We also understand that the same organization that brought the Modesto and Madera suits has made further inquiries regarding other Central Valley districts.

SUSD currently elects its five-member board in "at-large" elections (*i.e.,* elections in which each candidate for the Board is elected by all voters in the District) pursuant to Education

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1 *See Rey v. Madera Unified School Dist.*, 203 Cal. App. 4th 1223 (Feb. 28, 2012).

Code § 5030(a), and is therefore potentially vulnerable to suit under the CVRA.[2]

On July 13, 2009, the Board adopted Resolution No. 233, initiating an application to the Tulare County Committee on School District Organization ("County Committee") to change the District's method of election to "by-trustee area" elections, *i.e.,* elections in which "one or more members residing in each trustee area [is] elected by the registered voters of that particular trustee area[,]" Cal. Elec. Code § 5030(b).

On February 22, 2012, following the release of the 2010 Census, the SUSD Board adopted a trustee area plan for submission to, and approval by, the County Committee. On March 26, 2012, the County Committee approved that proposed plan and by-trustee area voting for use at the 2012 elections and thereafter.

In the normal course, the County Committee's approval of a change to the District's electoral system would act as an order of election, submitting the change to the District's voters at the November 2012 election. That, however, will preclude the District from implementing the new system in time for that election. Accordingly, the Board consulted with its advisory committees, school site councils and bargaining units, and held a duly-noticed public hearing, and on February 22, 2012, approved submission of a waiver of the electoral requirement.

If the waiver is approved, a local election would not be held: the system for electing trustees would change pursuant to the Resolution adopted by the SUSD Board in July 2009, and the approval of the County Committee.

The District proposed a trustee area boundary plan for the County Committee's consideration and approval, following an extensive public process. Though that plan would not be subject to an automatic vote of the people, it is subject to the possibility of a referendum under § 5019(d). Such a referendum, if qualified, would defeat the District's ability to implement by-trustee area elections in 2012.

Finally, § 5019(d) provides that a newly-adopted trustee area plan shall be implemented at the first district election that is *at least 120 days* after its approval is effective. The 120th day preceding the November 2012 election is July 9, 2010. Assuming—consistent with the calendar published on the CDE website—that this waiver will be heard at the Board's July 18-19 meeting, the District seeks also to have the 120-day deadline waived to facilitate implementation of the new by-trustee area electoral system for its November 2012 Board of Trustee elections. The candidate filing period for the November 2012 election opens July 16, 2012, and runs until August 8, 2012, and the affected county elections officials have already been provided the necessary information to implement trustee area elections for SUSD, so no person will be prejudiced by this waiver of the 120-day deadline.

There has been no public opposition to the waiver application. The SUSD Board has therefore determined that the public interest would be better served if trustees were elected

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[2] This does not represent a concession by the District that such a suit would be meritorious. There is presently not any formal allegation of racially-polarized voting in District elections. But no case has yet definitively construed the Act's many ambiguous provisions, and there are outstanding questions about what a plaintiff must prove to prevail under the Act. That uncertainty, coupled with the potential for massive fee awards, creates a significant disincentive to contest such a suit.

by-trustee areas and makes the following points in support of the waiver:

15. Questions have been raised about the current electoral system's legality under the California Voting Rights. Act. If not waived and if a measure to institute by-trustee area elections is defeated, the District would continue to be vulnerable to a legal challenge regarding the establishing of by-trustee area elections. Though the District does not concede that the current system would violate the CVRA, and has not itself been directly threatened with litigation, it has no desire to risk costly litigation under the Act.

16. The request for waiver is contingent upon the County Committee's approval of by-trustee area elections. The SBE can therefore grant this waiver with the assurance that the District's proposal will nevertheless be subjected to independent review by the County Committee, composed of disinterested officials familiar with local circumstances.

17. No member of the public spoke against the waiver at the duly-noticed public hearings.

18. There has been minimal opposition to the plan.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

First Time Waiver: X

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	0	6	2	5	1	3

Local educational agency: Washington Colony Elementary School District	Contact name and Title: Craig Bowden, Superintendent	Contact person's e-mail address: cbowden@ washingtoncolony.k12.ca.us
Address: (City) (State) (ZIP) 130 E. Lincoln Avenue, Fresno, California 93706		Phone (and extension, if necessary): (559) 233-0706 Fax Number: (559) 233-9583
Period of request: (month/day/year) From: January 1, 2012 To: December 31, 2012	Local board approval date: (Required) February 14, 2012	Date of public hearing: (Required) January 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Education Code § 5020 and portions of §§ 5019, 5021 and 5030
Topic of the waiver: Waiver of elections requirement for change to by-trustee area elections.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: N/A and date of SBE Approval N/A
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): January 10, 2012; January 18, 2012; January 24, 2012

Name of bargaining unit and representative(s) consulted: Washington Colony Teachers' Assn.; Kim Davis, Representative, and Joanne Sweet, Representative

The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
Attendees included community members, bargaining unit representatives, school administrators, and the governing board.

How was the required public hearing advertised?
___ Notice in a newspaper _x_ Notice posted at each school _x_ Other: *(Please specify)* Notice posted at 3 public places in

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: English Learner Advisory Council; Washington Colony Elementary Site Council; El Consejo Asesor de Aprendices de Inglés de la Escuela Primaria Washington Colony

Date the committee/council reviewed the waiver request: January 18, 2012

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Please see Attachment A—CDE Note: Information contained in Attachment 2 of General Waiver.

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please see Attachment B.

12. Demographic Information:
District has a student population of 416 and is located in a rural area in Fresno County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☑ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☑ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
/s/ Craig Bowden	Superintendent	February 16, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

WASHINGTON COLONY ELEMENTARY SCHOOL DISTRICT
WAIVER APPLICATION
ATTACHMENT B

7. Desired Outcome/Rationale

Currently, each of the Washington Colony Elementary School District's ("District") five (5) school board members is elected "at large."

On February 14, 2012, the Board voted to change from at-large elections to by-trustee area elections for the November 2012 elections in an effort to ensure compliance with the Voting Rights Act and to help prevent the District from being entangled in costly lawsuits that other cities and districts have faced. This change would require trustees to live in designated trustee areas and trustees would be elected only by voters residing in their trustee area, not by all voters voting at-large.

During the past school year, the Board conducted public hearings on these issues during regular meetings of the Governing Board and presented the issues for discussion and input at Site Council and Parents' Club meetings.

The District requests that the State Board of Education grant a waiver of the requirement for a local election to approve the change in the manner of electing school board members (e.g. from at-large elections to by-trustee area elections). This requirement is contained primarily in Education Code section 5020 (see Attachment A).

If the waiver is approved by the State Board of Education, a local election would not be held: the system for electing trustees would change pursuant to the District's Resolution adopted on February 14, 2012, to change to by-trustee area elections for implementation during the November 2012 elections.

If the waiver is approved by the State Board, the change in voting procedures and the final trustee area map will be forwarded to the Fresno County Elections Office in time for implementation in the November 2012 elections.

There was no opposition to the District's plan at the numerous public hearings and meetings held during 2012. There was no opposition expressed at the Governing Board meeting held February 14, 2012, regarding the change to by-trustee area elections, the proposed area plan, or the District's intent to request SBE's waiver of the election requirement. No community members, school district employees, or other interested persons have opposed the waiver or the change to by-trustee area elections. Representatives from the faculty, the community and parent groups expressed their support of the change of election method and the waiver.

The Governing Board of Washington Colony Elementary School District has determined that the public interest would be better served if trustees were elected by by-trustee areas and makes the following points in support of the waiver:

19. Selecting trustees in by-trustee area elections enhances the opportunity for representation on the Board of all communities within the District.

20. Selecting trustees in by-trustee area election will enhance the ability for a greater number of candidates to run for seats on the school board by reducing the costs associated with running for election district wide.

21. Questions have been raised about the current electoral system's legality under the California Voting Rights Act. If not waived and if the Governing Board's measure to move to by-trustee area elections is defeated at an election, the District would continue to be vulnerable to a legal challenge regarding the establishing of by-trustee area elections.

22. The decision to change to by-trustee area elections and to request this waiver was supported unanimously by the Governing Board.

23. There has been no opposition to the plan.

24. The Governing Board of the Washington Colony Elementary School District represents the electorate, and has unanimously resolved to adopt by-trustee area elections and to request this waiver.

The conditional waiver of the election requirement will ensure that the District proceeds in the most efficient and cost-effective manner, and is protected from legal challenges. Approval of the waiver request will not remove the requirement that any future District governing board member be elected by voters in the district. The waiver only eliminates the requirement that an election be held to determine the method by which future board members will be elected.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-18

ITEM #W-18

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Blake Elementary School District** to waive California *Education Code* Section 35780(a), which requires lapsation of a district with an average daily attendance of less than six. Waiver Number: 23-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous requests to waive portions of California *Education Code* (*EC*) Section 35780 in the past few years. However, the most recent request for the purpose of postponing lapsation was approved at the January 12, 2006, SBE meeting for the Panoche Elementary School District (ESD) in San Benito County.

SUMMARY OF KEY ISSUES

Education Code Section 35780 establishes the conditions necessary for a county committee on school district organization (county committee) to initiate lapsation proceedings for a school district. Subdivision (a) of this section requires lapsation of an elementary school district when the district's average daily attendance (ADA) falls below six. Under conditions of lapsation, the county committee is required to annex the territory of the lapsed district to one or more adjoining districts.

Kern County Office of Education reports that the ADA of the Blake ESD fell below six at the end of the 2011–12 school-year, but the district believes that the ADA will increase for the 2012–13 year. The district is requesting a waiver of subdivision (a) of *EC* 35780 (the requirement to lapse the district) for one year—to provide additional time to stabilize enrollment in the district.

The Blake ESD is a remote, rural school district covering an area of 177 square miles in the Sierra foothills of Kern County. Enrollment in the district has fluctuated between six and 14 students over the past five years. This year, one family (with school-age children and younger siblings) left the community to find work—reducing school enrollment to five students. According to the district, this family has indicated that it will return for the

SUMMARY OF KEY ISSUES (Cont.)

2012–13 school-year. Moreover, the district reports that another family has purchased a home in the community and plans to enroll its students in the district for 2012–13.

The closest adjoining district to the Blake ESD is the Linns Valley-Poso Union ESD with a 2010–11 enrollment of 23. Although this is the closest district, there is no guarantee that the Blake ESD, if lapsed, would be annexed to this district. The Kern County Committee could order the Blake ESD annexed to one or more adjoining districts according to what the County Committee determined to be the best interests of the adjoining districts and the residents of the lapsed district. The single school in the Linns Valley-Poso Union ESD is located about 11 miles from the Blake School. However, the road between the two schools is very curvy, climbs over a mountain pass, and can be dangerous during winter because of conditions.

Note that lapsation would not necessarily result in the closure of the Blake School. A school in a lapsed district can continue to operate while having its administrative functions handled by the district it joins. The governing board of the district receiving the Blake School would make the decision regarding closure of the school.

The Kern County Superintendent of Schools has provided strong support for the district's request to waive *EC* Section 35780, noting that the district provides vital educational services to students in the area and enjoys strong community support. The County Superintendent provides a variety of supportive services to the Blake ESD and will continue to support the district if the waiver request is approved.

The Blake ESD has until the end of the 2011–12 school-year to determine if enrollment will climb above six students, since the County Committee cannot initiate lapsation until that time. Approval of this waiver will provide an extra year to stabilize enrollment. If ADA is not at six or above by June 30, 2013, the County Committee will be required to initiate lapsation even if this waiver request is approved.

The CDE finds that none of the grounds specified in *EC* Section 33051, which authorize denial of a waiver, exist. The CDE recommends that the SBE approve the request by the Blake ESD to waive subdivision (a) of *EC* Section 35780.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with

Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: The Blake ESD has a 2010–11 student population of 8 and is located in a rural area of Kern County.

Authority for Waiver: *EC* Section 33050

Period of request: June 30, 2012, to June 30, 2013 (requested and recommended)

Local board approval date(s): March 8, 2012

Public hearing held on date(s): March 8, 2012

Bargaining unit(s) consulted on date(s): District does not have bargaining units.

Name of bargaining unit/representative(s) consulted: The district has no bargaining units.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify):

Advisory committee(s) consulted: District Advisory Council.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 7, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the request will not have negative fiscal effects on any local or state agency

ATTACHMENT(S)

Attachment 1: Blake Elementary School District (23-3-2012) General Waiver Request. (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 2: Letter of Endorsement (1 Page).

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x__

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	5	6	3	3	5	4

Local educational agency: Blake Elementary School District	Contact name and Title: Gary Bray, Administrative Analyst, Office of Kern Co. Superintendent of Schools	Contact person's e-mail address: gabray@kern.org
Address: (City) (State) (ZIP) Office of the Kern County Superintendent of Schools 1300 17th Street Bakersfield CA 93301-4533		Phone (and extension, if necessary): 661-636-4742 Fax Number: 661-636-4121
Period of request: (month/day/year) From: June 30, 2012 To: June 30, 2013	Local board approval date: (Required) March 8, 2012	Date of public hearing: (Required) March 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): EC 35780 (a) Circle One: *EC* or *CCR*

   Topic of the waiver: district lapsation

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining unit and representative(s) consulted:

   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): The district has no bargaining units, but employees were consulted and are wholly in favor of the district's application for a waiver under Ed. Code 35780 (a).

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised? A formal notice was posted at the post office, the fire station and the school district office. The public hearing was held March 8, 2012. There was strong community support for this waiver request.

   Notice in a newspaper X Notice posted at each school Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: The District Advisory Council reviewed the request on 3/7/12.

   Were there any objection(s)? No __X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

35780 (a) Any school district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12, except that for any unified district which has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the district for one year upon a written request of the governing board of the district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please see:
Addendum A; narrative—desired outcome/rationale

Addendum B; letter of endorsement for this waiver request from Kern County Superintendent of Schools, Christine Lizardi Frazier.

`8. Demographic Information:
Blake Elementary School District has a student population of **8** and is located in a **rural area** in **Kern County**.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Addendum A
Desired Outcome/Rationale

Blake Elementary School District is a small, rural district located in the Sierra foothills of northern Kern County. The economy of the area is primarily cattle ranching. The Board of Trustees and the community strongly wish to keep the school district operational, continuing over 100 years of service to their students. The Blake Elementary School District was established in 1898 and has a proud history of graduating five generations of students.

The closest adjoining district is Linns Valley-Poso Flat USD, which has a current enrollment of 23 students. The single school site in that district is located 11 miles from Blake S.D. However, the road between the schools climbs over a mountain pass and is steep and twisty and can be dangerous in inclement weather, such as heavy snow or rain.

As one of the smallest school districts in California, Blake has experienced an average daily attendance of about 11 students yearly over the last 10 years. Please note the chart below:

Year	Average Daily Attendance
2011	8
2010	9
2009	7
2008	8
2007	13
2006	17
2005	14
2004	10
2003	15
2002	12

This year, one family left the community to find work. They have stated that they plan to return for the 2012-13 school year, along with school-age children and younger siblings. Another family has purchased a home in the community and plans to move in with their school-age children in 2012-13. The five students currently attending will remain at Blake S.D. for 2012-13, as well. As the economy improves, more students are expected to enroll. The school has received many inquiries from interested parents and expects the enrollment to increase to normal levels in 2012-13.

The primary reason that parents are attracted to Blake S.D. is that students in the school are quite successful, with many gaining up to two years of educational growth for each year of attendance. This growth can be attributed to the efforts of the one certificated teacher/principal and the two part-time classified staff members. When the classified employees are not engaged in district business operations or maintenance, they can be found in the classroom, volunteering as instructional aides.

It is possible that the enrollment in Blake School District will increase to at least six in this school year, since current enrollment is already at 5 students. Approval of this waiver request will give Blake S.D. another year to stabilize enrollment. The Kern County Superintendent of Schools supports the district's request to waive EC Section 35780.

Kern County
Superintendent
of Schools

Office of Christine Lizardi Frazier ...advocates for children

March 5, 2012

California Department of Education
Waiver Office
1430 "N" Street, Suite 5602
Sacramento, CA 95814

To Whom It May Concern:

The purpose of my letter today is to offer my strong support of the Blake School District's application for a General Waiver request as allowed under Education Code section 35780, District Lapsation.

The Blake School District has been meeting the educational needs of school children in and near the mountain community of Woody since 1899. Although located just 35 miles from Bakersfield, the Blake school district serves children in an area without adjoining educational facilities and serves a rural area that encompasses 117 square miles. The district enjoys strong community support and a dedicated teacher / principal who has been with the district since 2008.

The Kern County Superintendent of Schools provides a variety of supportive services to the Blake School District and will continue to support their efforts to provide vital public education to the students in that area.

We respectfully request that the California Department of Education approve the General Waiver request (District Lapsation) for the Blake School District as outlined in the attached waiver application. Thank you for your consideration.

Sincerely,

Christine Lizardi Frazier
Kern County Superintendent of Schools

CLF:ss

1300 17th Street - CITY CENTRE, Bakersfield, CA 93301-4533
(661) 636-4000 ● FAX (661) 636-4130 ● TDD (661) 636-4800 ● www.kern.org

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California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-19

ITEM #W-19

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Stockton Unified School District** to waive portions of California *Education Code* sections 45127, 45128, and 45132 to allow the school police officer dispatchers to work 12-hour per day shifts, three days per week, and work an 8-hour day every other week, to constitute eighty hours in a two-week period, without requiring overtime pay. Waiver Number: 19-5-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has considered two previous waivers, Waiver Number 5-3-2005 and Waiver Number 8-11-2009, to waive portions of California *Education Code* (*EC*) sections 45127 and 45128. Both waivers were requested by the San Diego Unified School District (USD) to allow school police dispatchers to alter their work schedule. Waiver Number 5-3-2005 was approved; Waiver Number 8-11-2009 revised the work schedule established in Waiver Number 5-3-2005, so a new waiver was submitted. This waiver was approved with conditions that limited the waiver term to two years. California *Education Code* (EC) Section 33051(b) will not apply and the district will need to reapply.

SUMMARY OF KEY ISSUES

The Stockton USD is seeking a waiver from the tenets of (*EC*) sections 45127, 45128, and 45132 so they can construct workday and workweek schedules for employees working as school police officers and dispatchers. The district has a 24-hour a day police department in operation every day of the calendar year. The district is seeking this waiver to allow for flexible scheduling so they can provide quality service and thereby increase the safety of students, staff, and the community. They seek two schedule changes:

1. Employees would be allowed to work nonconsecutive, 10-hour shifts in order to best meet their operational and financial needs.

SUMMARY OF KEY ISSUES (Cont.)

2. Employees would be allowed to work 12-hour shifts, stating that operationally and financially, it is better to divide the 24-hour day into two 12-hour shifts. This results in two employees rather than three employees working to cover the workday, which includes nights and weekends. The third employee freed by this schedule would then be scheduled to work during peak hours of Monday through Friday when schools in the district are in operation.

The district held a public meeting to discuss the proposed schedule changes. The public hearing notification was posted at each school site. There were no objections.

Furthermore, the union representing the police officers and these dispatchers were consulted on two occasions and voted to support this waiver request.

Demographic Information: Stockton USD has a student population of 38,803 and is located in an urban city in San Joaquin County.

Authority for Waiver: *EC* Section 33050

Period of request: June 1, 2012 to June 30, 2014
Period recommended: June 1, 2012 to June 29, 2014

Local board approval date(s): April 26, 2012

Public hearing held on date(s): April 26, 2012

Bargaining unit(s) consulted on date(s): Operating Engineers, Local #3 was consulted on January 27, 2012, and March 29, 2012.

Name of bargaining unit/representative(s) consulted: Mike Eggener, Representative, Operating Engineers, Local #3

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: The District Advisory Council Executive Board was consulted.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 26, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Stockton Unified School District General Waiver Request (3 pages)
(Original waiver request is signed and on file in the Waiver Office)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

*First Time Waiver: _X_*

Renewal Waiver: ___

Revised Waiver: May 8, 2012

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	6	7	6

Local educational agency: Stockton Unified School District	Contact name and Title: Supt. Carl Toliver	Contact person's e-mail address: ctoliver@stockton.k12.ca.us
Address: 701 N. Madison St. (City) Stockton (State) CA (ZIP) 95202		Phone (and extension, if necessary): 209 933-7070 Fax Number:
Period of request: (month/day/year) From: June 1, 2012 To: ongoing	Local board approval date: (Required) April 10, 2012 & May 8, 2012	Date of public hearing: (Required) April 10, 2012 & May 8, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): List codes here 45127; 45128; 45132 Circle One: ***EC*** or *CCR*

   Topic of the waiver: Hours of work: overtime

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 1/27/12; 03/29/12

   Name of bargaining unit and representative(s) consulted: Operating Engineers, Local #3

   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate): The employees strongly support this waiver

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

6. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: April 26, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

   ~~**Not applicable: This waiver does not impact the school site councils.**~~
   Approval by the District Advisory Council Executive Board was obtained on April 26, 2012.

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

7. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Section 45127: "The workday shall be 8 hours"

Section 45128: "Overtime is defined to include any time worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week"

Section 45132: **"a 10-hour-per-day, 40-hour, four-consecutive-day workweek for all, or certain classes of its employees, or for employees within a class when, by reason of the work location and duties actually performed by such employees, their services are not required for a workweek of five consecutive days, provided the establishment of such a workweek has the concurrence of the concerned employee, class of employees, or classes of employees as ascertained through the employee organization representing a majority of the concerned employees or class or classes, of employees, as determined by the payroll deduction authorizations for dues in classified employee organizations on file with the district on the last day of the month next preceding the date the board action was taken."**

8. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The district has a 24-hour police department. Unit members include police officers and dispatchers who work 24/7/365. Duties include monitoring and responding to intrusion and fire alarms as well as general police patrol duties. In 2011, officers responded to over 39,000 incidents that resulted in over 5,700 reports across regular and dependent charter schools. Scheduling flexibility is imperative to providing quality service to meet the varied demands of the district.

We seek two schedule changes. First, we are asking that employees be allowed to work nonconsecutive 10-hour shifts. We need to cover 5 days with 10-hour shifts, we are best able to meet our operational and financial needs by having one officer cover the day off of several employees by scheduling a variety of days off. In addition, we can accommodate employee requests for a nonconsecutive day off.

Second, we are asking that employees be allowed to work 12-hour shifts. Operationally and financially, it is better to have the 24-hour day divided into 12-hour shifts because it means two employees rather than three can provide the necessary coverage at night and on weekends. That third employee can be assigned to work during the week only, when school related matters are most urgent, rather than having to work part of the weekend.

To implement the 12-hour schedule, employees work 3 12-hour shifts one week (36 hours) and 4 12-hour shifts the second week (44 hours). The second week employees work two 12-hour and two 10-hour shifts. The total of the 14 day period is 80 hours. Any hours work in addition to 80 hours in 14 days is paid at the overtime rate.

Survey data indicate that students and staff feel safer when a police officer is on campus. The 12-hour schedule allows us to have the greatest number of officers on duty during school hours. This increases the number of officers seen by students and staff, and speeds response times to calls for service.

The employees strongly support working the 10-hour and 12-hour schedules.

9. Demographic Information:
(*District/school/program)***Stockton Unified School District**__ has a student population of **_38,014___** and is located in a __(*urban, rural, or small city etc.)*__ in **San Joaquin County**.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: SUPERINTENDENT	Date: May 9, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-20

ITEM #W-20

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **Specific Waiver**

SUBJECT

Request by thirteen local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

Waiver Number: Dunsmuir Joint Union High 19-3-2012
Eureka City Schools 52-3-2012
Garfield Elementary 62-1-2012
Lagunitas Elementary 36-4-2012
Mendocino County Office of Education 42-3-2012
Mountain Empire Unified 29-3-2012
Orick Elementary 31-3-2012
Placer Union High 17-3-2012
Salinas Union High 51-3-2012
Santa Barbara County Office of Education 7-4-2012
Southern Trinity Joint Unified 24-4-2012
Temple City Unified 18-1-2012
Yosemite Unified 16-4-2012

☒ **Action**

☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with the following conditions: See Attachment 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the Schoolsite Council (SSC) requirements of the School-Based Coordination Program (SBCP) Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

SUMMARY OF KEY ISSUES

Dunsmuir Joint Union High School District is requesting a shared SSC and composition change for Dunsmuir High School (8 teachers serving 83 students in grades nine through twelve) and Dunsmuir Joint Union High Community Day School (1 teacher serving 1 student in grade twelve). The schools are located in a rural area.

Eureka City Schools is requesting a SSC composition change for Zoe Barnum Continuation High School (6 teachers serving 99 students in grades nine through twelve). The school is located in a small city.

Garfield Elementary School District is requesting changes to the waiver (Waiver # 62-1-2012-W-20) approved by the SBE at its May 2012 meeting for Garfield Elementary School. Garfield Elementary School is having difficulties meeting the reduced SSC composition approved in the May waiver and is therefore requesting further reduction of its SSC membership. The school is in a single school district (3 teachers serving 62 students) and is located in a rural area.

Lagunitas Elementary School District is requesting a shared SSC for two small schools, Lagunitas Elementary School (7 teachers serving 137 students in kindergarten and grades one through eight) and San Geronimo Valley Elementary School (7 teachers serving 132 students in kindergarten and grades one through eight). The schools share one principal and are located within a quarter mile of each other.

Mendocino County Office of Education is requesting a shared SSC and composition change for Mendocino County Community School (8 teachers serving 134 students in grades seven through twelve) and West Hills Juvenile Hall Court School (5 teachers serving 37 students in kindergarten and grades one through twelve). The schools are located in a rural area.

Mountain Empire Unified School District is requesting a shared SSC for Clover Flat Elementary School (8 full-time teachers serving 154 students in grades two through eight) and Jacumba Elementary School (3 full-time teachers serving 46 students in kindergarten and grades one through two). The schools share one administrator and are located in a rural area.

Orick Elementary School District is requesting a SSC composition change for Orick Elementary School (2 teachers serving 16 students in kindergarten and grades one through eight). The school is in a single school district located in a rural area.

Placer Union High School District is requesting a SSC composition change for Foresthill High School (11.83 teachers serving 240 students in grades nine through twelve). The school is located in a rural area.

Salinas Union High School District is requesting a SSC composition change for El Puente School, an alternative school for independent studies (11.83 teachers serving 316 students in grades seven through twelve). The school is located in an urban area.

Santa Barbara County Office of Education is requesting a shared SSC for four small schools with multiple campuses: Santa Barbara County Community School (twelve teachers serving 300 students in grades seven through twelve) with two campuses located in small cities and the third in a rural area; Summit High School, II (2 teachers serving 23 students in grades nine through twelve) with both campuses located in small cities; Summit High School (1 teacher serving 1 student in grade eleven) located in a small city; and Santa Barbara County Juvenile Court (9 teachers serving 165 students

in grades seven through twelve) located in a urban area. The schools share one administrator, common curriculum, services, and coordinated program planning. In addition, these schools enroll similar and very mobile students who go back and forth between some of these schools. The level of mobility of these students creates a challenge in maintaining separate SSCs as well as in securing a consistent number of parents to meet the regular SSC composition requirements.

Southern Trinity Joint Unified School District is requesting a shared SSC with composition change for three small schools: Van Dozen Elementary School (61 students in kindergarten and grades one through eight), Southern Trinity High School (35 students in grades nine through twelve), and Mt. Lassic High Continuation School (1 student in the grades nine through twelve grade span). The schools share one administrator (principal/superintendent) and 10 teachers. In addition, the schools are located within close proximity of each other and share common areas such as cafeteria and gymnasium.

Temple City Unified School District is requesting a SSC composition change for Dr. Doug Sears Learning Center (3.6 teachers serving 51 students from grades nine through twelve). It is a continuation high school and does not share the same curriculum with the regular high school, Temple City High School. The school is also very mobile in student population and located in a small city. The SSC composition change request was approved by the SBE at its May 2012 meeting (Waiver # 18-1-2012-W-20). However, the school is having difficulties implementing its SSC membership composition therefore requesting to further reduce the composition.

Yosemite Unified School District is requesting a shared SSC for eight very small schools: Ahwahnee High School (1 teacher serving 21 students in grades nine through twelve), Campbell Community Day High School (1 teacher serving 11 students in grades nine through twelve), Evergreen High School (1.5 teachers serving 48 students in grades nine through twelve), Foothill High School (2 teachers serving 13 students in grades nine through twelve), Meadowbrook Community Day School (1 teacher serving 7 students in grades five through eight), Mountain View High School (1 teacher serving 16 students grades nine through ten), Raymond Granite High School (1 teacher serving 7 students in grades nine through twelve), and Yosemite Falls Education Center (2 teachers serving 24 students in kindergarten and grades one through twelve.) The schools share one administrator and are located in a rural area.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting a Schoolsite Council Waiver (7 Pages)

Attachment 2: Dunsmuir Joint Union High School District Specific Waiver Request 19-3-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Eureka City Schools Specific Waiver Request 52-3-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Garfield Elementary School District Specific Waiver Request 62-1-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Lagunitas Elementary School District Specific Waiver Request 36-4-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Mendocino County Office of Education Specific Waiver Request 42-3-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Mountain Empire Unified School District Specific Waiver Request 29-3-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 8: Orick Elementary School District Specific Waiver Request 31-3-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Placer Union High School District Specific Waiver Request 17-3-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 10: Salinas Union High School District Specific Waiver Request 51-3-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 11: Santa Barbara County Office of Education Specific Waiver Request 7-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 12: Southern Trinity Joint Unified School District Specific Waiver 24-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 13: Temple City School District Specific Waiver Request 18-1-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 14: Yosemite Unified School District Specific Waiver Request 16-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Local Educational Agencies Requesting a Schoolsite Council Waiver

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
19-3-2012	Dunsmuir Joint Union High School District for Dunsmuir High School (47 70250 4732707) and Dunsmuir Joint Union High Community Day School (47 70250 4730164)	Shared SSC and composition change	Approval with conditions; the SSC must consist of one principal (for both sites), two classroom teachers (selected by peers), one other school representative (selected by peers), two parents/community members (selected by peers), and two students (selected by peers).	**Yes** **Period of Request:** July 1, 2012 to June 30, 2014 **Period Recommended:** July 1, 2012 to June 30, 2014	Dunsmuir High School Unit/ Southern Siskiyou County Teachers Association/CTA/NEA, Pam May, and Dunsmuir Joint Union High School District Classified Employee Association, Danelle Cascarina, on February 10, 2012. **Support**	Dunsmuir High Schoolsite Council, Mike Smith, Ellen McArron, Len Foreman, Pamela Price, and Pam May, on March 7, 2012. **Approve**	March 1, 2012
52-3-2012	Eureka City Schools for Zoe Barnum Continuation High School (12 75515 1232057)	Composition change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), one other school representative (selected by peers), two parents/community members (selected by peers), and two students (selected by peers).	**Yes** **Period of Request:** July 1, 2011 to June 30, 2013 **Period Recommended:** July 1, 2011 to June 30, 2013	Eureka Teachers Association on December 12, 2011. **Support**	(Provisional) Zoe Barnum Schoolsite Council, Sheri Jensen, on December 16, 2011. **Approve**	February 1, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
62-1-2012	Garfield Elementary School District for Garfield Elementary School (12 62836 6007892)	Composition change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), and three parents/community members (selected by peers).	**Yes** **Period of Request:** January 17, 2012 to January 17, 2014 **Period Recommended:** January 17, 2012 to January 16, 2014	Not applicable	Garfield Schoolsite Council on November 10, 2011 **Approve**	December 8, 2011
36-4-2012	Lagunitas Elementary School District for Lagunitas Elementary School (21 65359 6024335) and San Geronimo Valley Elementary School (21 65359 6024343)	Shared SSC	Approval with conditions; the SSC must consist of one administrator (for both sites), three classroom teachers (selected by peers), one other school representative (selected by peers), and five parents/community members (selected by peers).	**Yes** **Period of Request:** July 1, 2012 to June 30, 2014 **Period Recommended:** July 1, 2012 to June 30, 2014	California Teachers Association, Lagunitas Teachers Association, Michelle Benjamin, and California School Employees Association Classified Employees, Linda "Howie" Cort, on April 6, 2012. **Support**	Schoolsite Council, Laura Shain, on April 5, 2012. **Approve**	April 17, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
42-3-2012	Mendocino County Office of Education for Mendocino County Community School (23 10231 2330447) and West Hills Juvenile Hall Court School (23 10231 2330124)	Shared SSC and composition change	Approval with conditions; the SSC must consist of one administrator (for both sites), three classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and two students (selected by peers).	**No** **Period of Request:** February 9, 2012 to February 9, 2014 **Period Recommended:** February 9, 2012 to February 8, 2014	Mendocino County Office of Education Federation of School Employees on January 30, 2012. **Support**	Alternative Education Schoolsite Council, on February 9, 2012. **Approve**	March 12, 2012
29-3-2012	Mountain Empire Unified School District for Clover Flat Elementary School (37 68213 6085054) and Jacumba Elementary School (37 68213 6038707)	Shared SSC	Approval with conditions; the SSC must consist of one administrator (for both sites), three classroom teachers (selected by peers), one other school representative (selected by peers), and five parents/community members (selected by peers).	**Yes** **Period of Request:** August 27, 2010 to August 27, 2012 **Period Recommended:** August 27, 2010 to August 26, 2012	California School Employees Association Mountain Empire Chapter 441, Sheryl Bush-Carmody, and Mountain Empire Teacher's Association, Mari Mann; on February 13, 2012. **Support**	Clover Flat Jacumba Compact Schoolsite Council, on January 19, 2012. **Approve**	March 13, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
31-3-2012	Orick Elementary School District for Orick Elementary School (12 62968 6008080)	Composition change	Approval with conditions; the SSC must consist of one principal, two classroom teachers (selected by peers), and three parents/community members (selected by peers.)	**Yes** **Period of Request:** August 3, 2012 to August 3, 2015 **Period Recommended:** August 3, 2012 to August 2, 2014	District does not have a collective bargaining unit.	Orick Elementary Schoolsite Council, on March 22, 2012. **Approve**	February 17, 2012
17-3-2012	Placer Union High School District for Foresthill High School (31 66894 0102293)	Composition change	Approval with conditions; the SSC must consist of one principal, three classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and two students (selected by peers).	**Yes** **Period of Request:** October 1, 2011 to October 1, 2013 **Period Recommended:** October 1, 2011 to September 30, 2013	Associated Teachers of Placer, Mark Faulkner, President, on February 15, 2012. **Support**	Foresthill High Schoolsite Council, on February 15, 2012. **Approve**	February 28, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
51-3-2012	Salinas Union High School District for El Puente School (27 66159 0124610)	Composition change	Approval with conditions; the SSC must consist of one principal, three classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and two students (selected by peers).	**No** **Period of Request:** August 10, 2011 to May 31, 2012 **Period Recommended:** August 10, 2011 to May 31, 2013	Salinas Valley Federation of Teachers, Steve McDougall, on January 26, 2012, and California School Employees Association Chapter 547, Lucy Vega, on February 8, 2012. **Support**	El Puente Schoolsite Council on January 10, 2012. **Approve**	March 27, 2012
7-4-2012	Santa Barbara County Office of Education for Santa Barbara County Community School (42 10421 4230207), Summit High School, II (42 10421 0116855), Summit High School (42 10421 0108654), and Santa Barbara County Juvenile Court (42 10421 4230157)	Shared SSC	Approval with conditions; the SSC must consist of one principal, four classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and three students (selected by peers).	**No** **Period of Request:** July 1, 2011 to June 30, 2013 **Period Recommended:** July 1, 2011 to June 30, 2013	California School Employees Association, Mike Ostini, and Santa Barbara County Education Association, Laura Ishikawa, on February 8, 2012. **Support**	Parent Staff Advisory Committee on March 20, 2012. **Approve**	April 5, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
24-4-2012	Southern Trinity Joint Unified School District for Van Duzen Elementary (53 73833 6053805), Southern Trinity High (53 73833 5337423), and Mt. Lassic High (Continuation) School (53 73833 5330030)	Shared SSC	Approval with conditions; the SSC must consist of one principal, three classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and two students (selected by peers).	**Yes** **Period of Request:** July 1, 2012 to June 30, 2014 **Period Recommended:** July 1, 2012 to June 30, 2014	Southern Trinity Teachers' Association, Marie Block, President, on April 3, 2012. **Support**	Van Duzen Elementary Schoolsite Council on April 2, 2012. **Approve**	April 18, 2012
18-1-2012	Temple City Unified School District for Dr. Doug Sears Learning Center (19 65052 1995745)	Composition change	Approval with conditions; the SSC must consist of one principal, one teacher (selected by peers), one parent (selected by peers), and one student (selected by peers).	**Yes** **Period of Request:** March 10, 2012 to March 10, 2014 **Period Recommended:** March 10, 2012 to March 9, 2014	California School Employees Association 105 (White Collar, Anita Aemmer and 823 (Blue Collar) Art Contreras, and Temple City Education Association (Teachers), Debra Maurey, on November 21, 2011. **Support**	Schoolsite Council per Stephen Edo, President, Reggie Rios, Teacher, Vincent Ouyang, Student, and Denice Rougeau-Gerlach, Parent, on December 7, 2011. **Approve**	January 11, 2012

Waiver Number	LEA for School(s) (CDS Code[s])	LEAs Request	CDE Recommendation	Previous Waiver Yes or No Period of Request/ Period Recommended	Collective Bargaining Unit Position/ Current Agreement	SSC/Advisory Committee Position	Local Board Approval Date
16-4-2012	Yosemite Unified School District for Ahwahnee High School (20 76414 2030039), Campbell High Community Day School (20 76414 0115527), Evergreen High School (20 76414 203104), Foothill High (Alternative) School (20 76414 2030088), Meadowbrook Community Day School (20 76414 6113914), Mountain View High School (20 76414 2030120), Raymond Granite High School (20 76414 2030070), and Yosemite Falls Education Center (20 76414 0115550)	Shared SSC	Approval with conditions; the SSC must consist of one administrator, four classroom teachers (selected by peers), one other school representative (selected by peers), three parents/community members (selected by peers), and three students (selected by peers).	**No** **Period of Request:** April 17, 2012 to April 16, 2014 **Period Recommended:** April 17, 2012 to April 16, 2014	Yosemite Teachers Association, Deborah Brown, on March 26, 2012, and California School Employees Association, Danielle Vawter, on March 23, 2012. **Support**	Yosemite Unified School District Advisory Committee on March 26, 2012. **Approve**	April 16, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL - COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _XX_**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	7	7	0	2	5	0

Local educational agency: **Dunsmuir High School**	Contact name and recipient of approval/denial notice: **Ellen McArron**	Contact person's e-mail address: **emcarron@sisnet.ssku.k12.ca.us**
Address: (City) (State) (ZIP) **5805 High School Way Dunsmuir, CA 96025**	Phone (and extension, if necessary): **530-235-4835** Fax number: **530-235-2224**	
Period of request: (month/day/year) From: **July 1, 2012 To: June 30, 2014**	Local board approval date: (Required) **March 1, 2012**	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC*) Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

   EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) ***EC* 52852**

   Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: **22-3-2010-W-16** and date of SBE approval **March 12, 2009.**
   Renewals of waivers must be submitted two month before the active waiver expires.

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No _XX_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **February 10, 2012**

   Name of bargaining units and representative(s) consulted:
   Dunsmuir High School Unit/Southern Siskiyou County Teachers Association/CTA/NEA-Pam May
   Dunsmuir JUHSD Classified Employee Association-Danelle Cascarina
   The position(s) of the bargaining unit(s): ___ Neutral **XX** Support ___ Oppose (*Please specify why*)
   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: **Mike Smith, Ellen McArron, Len Foreman, Pamela Price, Pam May.**

   Date advisory committee/council reviewed request: **March 7, 2012**

   _XX_ Approve ___ Neutral ___ Oppose

   Were there any objection? Yes ___ No _XX_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The Dunsmuir High School's School Site Council composition would consist of 1 principal, 1 classified personnel, 2 teachers, 2 students, and 2 parents.
Our small high school has 8 credentialed teachers, 3 of whom coach after school athletics throughout the year. The remaining 5 teachers take turns as members of the SSC for a term of 1 year. A minimum of 3 teachers is required to comprise the majority persons represented under category (a). With only 5 teachers, a teacher has to serve 3 consecutive years to continue to meet the requirement. With only 2 teachers participating there will be enough to give each teacher a break between terms.

Please attach a brief description of the situation in this school: The number of administrative staff, teachers and students at the schools. Indicate why a composition waiver is needed rather than this school sharing a SSC with another school per the SBE Waiver Policy for Shared SSC's available at: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc

8. Demographic Information:

Dunsmuir High School has a student population of 83 and is located in a rural city in Siskiyou County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **_XX_** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? **_XX_** No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent/Principal	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and
back-up material to: waiver@cde.ca.gov

CD CODE						
1	2	3	2	0	5	7

Local educational agency: Eureka City Schools, A Unified District	Contact name and Title: Lee Ann Lanning, Superintendent	Contact person's e-mail address:lanningl@eurekacityschoosl.org
Address: (City) (State) (ZIP) 2100 J Street Eureka CA 95501		Phone (and extension, if necessary): (707) 441-3363 Fax number: (707) 441-3338
Period of request: (month/day/year) From: July1, 2011 To: June 30, 2013	Local board approval date: (Required) February 1, 2012	

LEGAL CRITERIA

1. Authority for the waiver: **Ed Code 52863** Specific code section: **Ed Code 52852**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific EC Section you want to waive.
Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. If the State Board of Education approves a waiver request, the waiver shall apply only to the school or schools which requested the waiver and shall be effective for no more than two years. The State Board of Education may renew a waiver request.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: **Ed Code 52852** Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver:
A school site council (SSC) shall be established at each school which participates in school-based program coordination. The SSC shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school…
…At the secondary level the council shall be constituted to ensure parity between (a) the principal, classroom teachers and other school personnel; and (b) equal numbers of parents, or other community members selected by parents, and pupils.
At both the elementary and secondary levels, classroom teachers shall comprise the majority of person represented under category (a)…
To meet the current composition requirements of Ed Code 52852, a secondary school SSC must have twelve members, including the principal, four classroom teachers, one other school employee, three parents and three students.

3. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **12/08/2012 & 12/12/2011**

Name of bargaining units and representative(s) consulted**: CSEA: Redwoods 88 & Eureka Teachers Association**

The position(s) of the bargaining unit(s): ____ Neutral **X** Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

4. Advisory committee or school site council that reviewed the waiver. Name: **(Provisional) Zoe Barnum SSC**

Per EC 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: **12/16/2011**

_X__ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No **X** (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

5. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

"To meet the current composition requirements of Ed Code 52852, a secondary school SSC must have twelve members, including the principal, four classroom teachers, one other school employee, three parents and three students."

6. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Zoe Barnum Continuation High School has a contractual capacity of ninety-nine (99) students and employs only six classroom teachers, making it impractical to meet this regulation. Strict adherence to the stipulated SSC membership composition would present unreasonable hardship to the school. Requiring most of the teaching staff (four teachers) to be SSC members at all times does not seem in keeping with the intent of the regulation. Again, based on our small enrollment and small staff, the same argument applies to the ratios established for parents, students and other employees. In order to maintain parity between the school employees and the community/parent/student representation, the proposal is to allow Zoe Barnum Continuation High School to have a SSC composed of eight members, including the school principal, two teachers, one classified staff, two parents and two students.

7. Demographic Information:
Zoe Barnum Continuation High School has a student population of **99** and is located in a **small city** in **Humboldt County.**

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? **X** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*		
Signature of Superintendent or Designee:	Title: **Assistant Superintendent of Educational Services**	Date: **3/29/2012**
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL- COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: ___**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	2	6	2	8	3	6

Local educational agency: GARFIELD SCHOOL DISTRICT	Contact name and recipient of approval/denial notice: BARBARA M. MCMAHON	Contact person's e-mail address: bmcmahon@humboldt.k12.ca.us
Address: (City) (State) (ZIP) 2200 Freshwater Road Eureka CA 95503		Phone (and extension, if necessary): 707 442-5471 Fax number: 707 442-1932
Period of request: (month/day/year) From: 1/17/12 To: 1/17/14	Local board approval date: (Required) 12/8/11	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**
EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) ***EC* 52852**

Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: 17-12-2009-WC-7 and date of SBE approval 3/11/10.

4. Collective bargaining unit information.

Does the district have any employee bargaining units? _**X**__ No ___ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):

Name of bargaining units and representative(s) consulted:

The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name:
Garfield Schoolsite Council

Date advisory committee/council reviewed request: 11/10/11

__**X**_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _**X**__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The desired outcome is for the district to be in compliance and have a workable School Site Council. The waiver is necessary due to the small size of our district (under 60 ADA). Currently, our staff size is 3 FTE It is not possible for all three teachers to serve in this capacity due to their adjunct responsibilities. The waiver has approval by both the site council and the board of trustees.

8. Demographic Information:
Garfield School District has a student population of 62 and is located in a rural in Humboldt County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _X_ No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 12/8/2011
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL - COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: √**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	1	6	5	3	5	9

Local educational agency: LAGUNITAS ELEMENTARY SCHOOL DISTRICT	Contact name and recipient of approval/denial notice: LAWRENCE H. ENOS	Contact person's e-mail address: lenos@marin.k12.ca.us
Address: (City) (State) (ZIP) PO BOX 308 SAN GERONIMO CA 94963		Phone (and extension, if necessary): 415-488-4118 x 201 Fax number: 415-488-9617
Period of request: (month/day/year) From: 7/1/2012 To: 6/30/2014	Local board approval date: (Required) 4/17/2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

   EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) ***EC* 52852**

   Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. **Renewal** of Waiver No: **1-9-2010-W-14 approved by SBE on Nov. 17, 2010**

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No _**X**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 6, 2012

   Name of bargaining units and representative(s) consulted: CTA – Lagunitas Teachers Association – Michelle Benjamin
   CSEA – Classified Employees – Linda "Howie" Cort

   The position(s) of the bargaining unit(s): ___ Neutral _**X**_ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Laura Shain

   Date advisory committee/council reviewed request: April 5, 2012

   _**X**_ Approve ___ Neutral ___ Oppose

   Were there any objection? Yes ___ No _**X**_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

In the Lagunitas Elementary School District there shall be one site council for grades K-8. The Council shall represent both school sites – Lagunitas Elementary and San Geronimo Valley Elementary.

The District has 269 students in K-8, a part-time superintendent and a full time principal. Lagunitas Elementary has 7 classroom teachers for 137 students. San Geronimo has 7 classroom teachers for 132 students. The two schools are within a quarter mile of each other, across a bridge over a creek, and share the principal. They also share special education and targeted assistance services.

8. Demographic Information:

Lagunitas Elementary School District has a student population of 269 and is located in a rural town in Marin County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _**X**_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 4/17/2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL - COMPOSITION OF MEMBERS

First Time Waiver: __X_

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: ___**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and
back-up material to: waiver@cde.ca.gov

CD CODE						
2	3	1	0	2	3	1

Local educational agency: **Mendocino COE**	Contact name and recipient of approval/denial notice: **Peter Kostas**	Contact person's e-mail address: **peterk@mcoe.us**
Address: (City) (State) (ZIP) **2240 Old River Rd Ukiah CA 95482**	Phone (and extension, if necessary): **707 467-5060** Fax number: **707 467-6022**	
Period of request: (month/day/year) **From: Feb. 9. 2012 To: Feb. 9, 2014**	Local board approval date: (Required) **March 12, 2012**	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

   EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) ***EC* 52852**

   Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: and date of SBE approval.
   Renewals of waivers must be submitted two month before the active waiver expires.

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No _X__ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **Jan. 30, 2012**

   Name of bargaining units and representative(s) consulted: Cherie Malnati

   The position(s) of the bargaining unit(s): ___ Neutral __X_ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Alternative Education SSC

   Date advisory committee/council reviewed request: **Feb. 9, 2012**
   __X_ Approve ___ Neutral ___ Oppose

   Were there any objection? Yes ___ No X___ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Our small juvenile hall school shares the same curriculum, instructional strategies and professional development as our county community school to meet our goals of improving student achievement in reading, math, CAHSEE passage, instructional technology, credit recovery and career technical education. Both schools share the same principal. Students transfer readily between the programs and having a joint school site council is the most efficient way of meeting our initiatives for student achievement.

8. Demographic Information:

Mendocino COE's Court & Community Schools had a student population on CBEDS of 134 in the Community School and 37 in the Juvenile Hall. The schools are rural in Mendocino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? **X** No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Paul Tichinin	County Superintendent	March 12, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

First Time Waiver: __

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	2	1	3

Local educational agency: Clover Flat Jacumba Compact, Mountain Empire Unified School District	Contact name and Title: Bill Dennett, Principal	Contact person's e-mail address: bdennett@meusd.k12.ca.us
Address: (City) (State) (ZIP) 39639 Old Highway 80 Boulevard CA 91905		Phone (and extension, if necessary): 619.766.4655 x201 Fax number: 619.766.4537
Period of request: (month/day/year) From: August 27, 2010 To: August 27, 2012	Local board approval date: (Required) March 13, 2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:
***EC* 52863** Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
***EC* 52852** Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
Read SBE Waver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: 18-4-2009-W-49 and date of SBE approval July 9, 2009

4. Collective bargaining unit information.
Does the district have any employee bargaining units? ___ No __X__Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): February 13, 2012

Name of bargaining units and representative(s) consulted: CSEA Mountain Empire Chapter 441 – Sheryl Bush-Carmody;
Mountain Empire Teacher's Association – Mari Mann;

The position(s) of the bargaining unit(s): ___ Neutral **_X_** Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED).
Name: **Clover Flat Jacumba Compact School Site Council**

Date advisory committee/council reviewed request: **January 19, 2012**

_X_ Approve ___ Neutral ___ Oppose

Were there any objections? Yes ___ No **_X_** (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

   EC 52852 *A schoolsite council shall be established at ~~each~~ school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. Allow one joint school site council to function for two small schools, Clover Flat Elementary School and Jacumba Elementary School.

   The desired outcome is to enhance the Mission and Vision of the Clover Flat Jacumba Compact by having one School Site Council serve both sites. Clover Flat School serves students (gr 2-8) from the communities of Boulevard and Jacumba. Jacumba serves Kindergarten and first grade from the communities of Boulevard and Jacumba. Clover Flat was awarded the California Distinguished School Award and the Title 1 Achievement School award in 2008. Clover Flat has again been nominated for the California Distinguished School Award this year.

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

Demographic Information: Mountain Empire Unified School District~~ Clover Flat Jacumba Compact has a combined student population of 200 (Clover Flat-154) (Jacumba- 46) and is located in a rural area 65 miles east of San Diego in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? X No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

The Compact shares one Principal who divides his time at both sites for a combined student population of 200 students. Jacumba has 3 teachers and Clover Flat has 8 teachers. This year, the Jacumba Elementary portion of the Compact serves 46 students in Kindergarten and first grade from both communities. Clover Flat serves 154 students in grades two through eighth from both communities. The Compact shares a PE teacher, Speech/Language teacher, and a RSP teacher. Both schools share the adopted district curriculum. The compact has one PTA that draws members from both communities and teachers from both sites regularly attend the meetings.

Clover Flat Elementary and Jacumba Elementary Schools are part of the Mountain Empire Unified School District (MEUSD) which is located in a rural area of east San Diego County. In 2003, Clover Flat School and Jacumba School combined and formed the Clover Flat Jacumba Compact serving students from the communities of Boulevard and Jacumba. Clover Flat School is located in Boulevard, 65 miles east of San Diego and 17 miles east of the MEUSD. Jacumba Elementary is 7 miles east of Clover Flat School and 24 miles east of MEUSD.

Due to the administration of the Compact and because it serves both communities, we would like to renew our School Site Council Waiver to allow one school site council to serve both sites.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL - COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _X__**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
1	2	6	2	9	6	8

Local educational agency: Orick School District (Orick Elementary School)	Contact name and recipient of approval/denial notice: John Sutter	Contact person's e-mail address: Jsutter40@sbcglobal.net
Address: (City) (State) (ZIP) P.O. Box 128 Orick CA 95555		Phone (and extension, if necessary): (707) 488-2821 Fax number: (707) 488-2831
Period of request: (month/day/year) From: 8/3/2012 To: 8/3/2015	Local board approval date: (Required) February 17th, 2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

   EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) ***EC* 52852**

   Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: 4-3-2009-W-20 and date of SBE approval Renewals of waivers must be submitted two month before the active waiver expires. May 8th, 2009

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? _X__ No ___ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining units and representative(s) consulted:

   The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: **Orick Site Council**

   Date advisory committee/council reviewed request**: 3-22-2012**

   __5_ Approve __0_ Neutral _0__ Oppose

   Were there any objection? Yes ___ No _X_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

   EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in this school: The number of administrative staff, teachers and students at the schools. Indicate why a composition waiver is needed rather than this school sharing a SSC with another school per the SBE Waiver Policy for Shared SSC's available at: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc

8. Demographic Information:
   Orick School has a student population of 16 and is located in a rural, isolated area in Humboldt County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) __X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL - COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _X_**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	1	0	2	2	9	3

Local educational agency: Placer Union High School District	Contact name and Title: Dave Horsey, Superintendent	Contact person's e-mail address: dhorsey@puhsd.k12.ca.us
Address: (City) (State) (ZIP) Post Office Box 5048, Auburn, CA 95604-5048		Phone (and extension, if necessary): (530) 886-4403 Fax number:
Period of request: (month/day/year) From: 10/1/2011 To: 10/1/2013	Local board approval date: (Required) 2/28/2012	

LEGAL CRITERIA

1. Authority for the waiver: __x_ Specific code section: **52863**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
52863
EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed.)

The Placer Union High School District Board of Trustees, on behalf of Foresthill High School Site Council, is requesting a waiver renewed for the reduction of the composition of the School Site Council from 12 to 10 members. The reduction in the composition does not change the parity in the council.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) 52852 Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high school site council and 10 members for elementary school site council).

The composition of the Foresthill High School Site Council, to ensure parity between members, will include: three (3) classroom teachers/certificated, one (1) principal, one (1) other staff member, three (3) parent/guardians, and two (2) students (one from grade 11 and one from grade 12).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: **1-12-2009-W-16** and date of SBE approval **March 11, 2010**
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _**x**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):

Name of bargaining units and representative(s) consulted: Associated Teachers of Placer; Mark Faulkner, President

The position(s) of the bargaining unit(s): ___ Neutral _**x**__ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: Foresthill High School Site Council

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: 2/15/2012

__**x**_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _**x**__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a strike out key if only portions of sections are to be waived). (Attach additional pages if necessary.)

   ED 52852. *A school site council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   Due to the small size of our school and therefore a limited number of credentialed staff, we wish to have our Site Council reduced by two members, from 12 to 10. This will allow us to have fewer credentialed staff on the Council, a role most of the credentialed staff have participated on since the school was opened in 2004. Our staff, which serves 240 students. It is not feasible for Foresthill High School to share an SSC with another school, and the nearest high school in our district is located some 25 miles away.

8. Demographic Information:
   Foresthill High School, Placer Union High School District has a student population of ___240_____ and is located in a rural, unincorporated area of Placer County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **x_** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**x**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (type or print):	Staff Signature:	Date:
Unit Manager (type or print):	Unit Manager Signature:	Date:
Division Director (type or print):	Division Director Signature:	Date:
Deputy (type or print):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

First Time Waiver: x
Renewal Waiver: ☐

SW-1 (Rev. 4/17/08) http://www.cde.ca.gov/re/lr/wr/
Page 1 of 2

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Faxed originals will not be accepted!

CD CODE						
0	1	2	4	6	1	0

Local educational agency: Salinas Union High School District	Contact name and recipient of approval/denial notice: Blanca Baltazar-Sabbah	Contact person's e-mail address: Blanca.baltazar@salinasuhsd.org
Address: (City) (State) (ZIP) 1900 Independence Blvd., Salinas, CA 93906	Phone (and extension, if necessary): 831-796-7863 Fax number: 831-796-7886	
Period of request: (month/day/year) From: Aug. 10, 2011 To: May 31, 2012	Local board approval date: (Required) March 27, 2012	

LEGAL CRITERIA

1. Authority for the waiver: ☐ Specific code section: 52852
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

Request by **Salinas High School District** under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* 52852, to allow a reduced number of schoolsite council members for a community day school with an ever changing population of students and parents.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) 52852 Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Allow a reduced number of schoolsite council members for a community day school with an ever changing population of students and parents.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: and date of SBE approval

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? ☐ No x Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):
January 26, 2012 (SVFT) and February 8, 2012 (CSEA)
Name of bargaining units and representative(s) consulted:
Salinas Valley Federation of Teachers (SVFT) – Steve McDougall, President
California School Employees Association (CSEA) – Chapter 547 – Lucy Vega, President

5. Advisory committee or school site council that reviewed the waiver. Name: El Puente School Site Council

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.

Date advisory committee/council reviewed request: January 10, 2012

x Approve ☐ Neutral ☐ Oppose

Were there any objection? Yes ☐ No x (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 4/17/08)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a strike out key if only portions of sections are to be waived). (Attach additional pages if necessary.) See Attachment.

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.) El Puente School (EPS) seeks to maintain a CDE compliant school site council. As an alternative school – independent study - EPS would be challenged to meet the required number of SSC participants. The waiver is necessary so that the EPS SSC can operate, monitor the Single Plan for Student Achievement and provide categorical resources for qualified EPS students.

8. Demographic Information:
For this waiver, SUHSD/El Puente involved has a student population of 316 and is located in a __(*Urban)* in Monterey County.

9. For a renewal waiver only, district also must certify:

True	False	
☐	☐	The facts that precipitated the original waiver request have not changed.
☐	☐	The remedy for the problem has not changed.
☐	☐	Members of the local governing board and district staff are not aware of the existence of any controversy over the implementation of this waiver or the request to extend it.

Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) x No ☐ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? x No ☐ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Director of Alternative Education	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

First Time Waiver: _X_

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: ___**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	2	1	0	4	2	1

Local educational agency: Santa Barbara County Education Office	Contact name and Title: Jan Clevenger Assistant Superintendent	Contact person's e-mail address: jclevenger@sbceo.org
Address: (City) (State) (ZIP) 4400 Cathedral Oaks Rd., Santa Barbara, CA 93110		Phone (and extension, if necessary): 805-964-4710 ext. 5265 Fax number: 805-964-2641
Period of request: (month/day/year) From: 7-1-11 To: 6-30-13	Local board approval date: (Required) April 5, 2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:

   EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.

   EC 52852 Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
   Read SBE Waiver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
   Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _NA____ and date of SBE approval
   Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No _X__ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): CA School Employees Assoc – 2/8/12
   Santa Barbara County Education Assoc. – 2/8/12

   Name of bargaining units and representative(s) consulted: Mike Ostini, CSEA, Laura Ishikawa, SBCEA

   The position(s) of the bargaining unit(s) ___ Neutral _X__ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Parent Staff Advisory Committee

   Date advisory committee/council reviewed request: 3/20/12

   _X__ Approve ___ Neutral ___ Oppose

   Were there any objections? Yes ___ No __X_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

   EC 52852 *A schoolsite council shall be established.* ~~*at* **each** *school which participates in school based program coordination*~~*. The council shall be composed of the* ~~***principal***~~ ***administrator*** *and representatives of: teachers selected by teachers* ~~**at the school**~~*; other school personnel selected by other school personnel* ~~**at the schoo**~~*l; parents of pupils attending the school**s** selected by such parents; and, in secondary schools, pupils selected by pupils attending the school**s**.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

Attached

8. Demographic Information: **Attached**
   (*District/school/program)*__ __ has a student population of _____ and is located in a _small city_(*urban, rural, or small city etc.)*__ in ____Santa Barbara_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X__ No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? **X**___ No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Jan Clevenger	Assistant Superintendent	4-5-12
Signature of SELPA Director (only if a Special Education Waiver) NA		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:

Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

SPECIFIC WAIVER REQUEST-Santa Barbara County Education Office

ITEM #7

Desired outcome/rationale:

By creating one council to serve all sites, we believe all interested parties can be properly represented and served. The council is composed of representatives from each site when feasible. The combined SSC will identify and address the unique student population and program requirements at each school, along with those identified program improvement needs common to all schools. We believe that the establishment of a joint school site council will allow streamlined site operations, reduce duplicated efforts, and consolidated planning. Ensuring a synergic effort to provide effective standard based instruction, program evaluation, parent engagement, and school-to-home communication resulting in greater opportunities to increase student achievement.

We believe to operate as a joint school site council, managed by by-laws and procedures, SBCEO can ensure a parity of representation with the membership composition required by the California Education Code.

Description of the situation in area:

SBCEO operates five community schools sites, two court school sites, and one community day school site, grades 7-12, in Santa Barbara County ranging at a maximum distance between north county and south county of about 100 miles.

The schools share a common administrator acting as principal for all sites. Each school shares common administration, curriculum and services, coordinated program planning, including special education services. The majority of students enrolled in the community schools and community day school are probation referred and/or expelled from the local school districts. The student populations are similar. The students are very mobile from one school to another staying with an SBCEO school for approximately 90-100 days. Students attending the court schools in many cases are some of the same students who were attending the community school before an arrest or adjudication with a pattern of going from community school to court school and back again.

The mobile student population at the community, court and community day schools also creates the challenge of having separate school site councils. It is extremely difficult to secure a consistent number of parents to meet the 50% parent mandate for the secondary site council.

ITEM #8

Demographic information:

CDS #	School Site	Location	Number of teachers	Number of students	Type of area
30207	El Puente CS	Santa Barbara	5	100	Small City
	El Puente CS	Lompoc	2	70	Rural
	FitzGerald CS	Santa Maria	5	130	Small City
0116855	Summit CS	Santa Barbara	1	18	Small City
	Summit CS	Goleta	1	5	Small City
0108654	Summit-CDS	Santa Barbara	1	1	Small City
30157	Los Robles High, Residential camp,	Santa Barbara	4	70	Serving Santa Barbara County
	Dos Puertas, Juvenile Hall	Santa Maria	5	95	

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

First Time Waiver: _

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _X**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
5	3	7	3	8	3	3

Local educational agency: Southern Trinity Joint Unified School District	Contact name and Title: Peggy Canale Superintendent	Contact person's e-mail address: pcanale@tcoek12.org
Address: (City) (State) (ZIP) 680 Van Duzen Road Bridgeville CA 95526		Phone (and extension, if necessary): 707-574-6237 ext. 223 Fax number: 707-574-6538
Period of request: (month/day/year) From: 7/1/12 To: 6/30/14	Local board approval date: (Required) April 18, 2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:

   EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   EC 52852 Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
   Read SBE Waiver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
   Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval
   Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 3,2012

   Name of bargaining units and representative(s) consulted: Southern Trinity Teachers' Association, Marie Block, President

   The position(s) of the bargaining unit(s): ___ Neutral X Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Van Duzen Elementary School Site Council

   Date advisory committee/council reviewed request: April 2, 2012

   X Approve ___ Neutral ___ Oppose

   Were there any objections? Yes ___ No X (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at ~~each~~ school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

Southern Trinity Joint Unified School District has a total of 116 students. There are three schools centrally located: Van Duzen Elementary, 61 ADA; Southern Trinity High School, ADA 35; Mt. Lassic Continuation High School, ADA 1. There is one principal/superintendent. There are 10 teachers. All of the school buildings are located within close proximity of each other. The schools all share common areas such as cafeteria and gymnasium. STJUSD has one set of goals that drive the improvement process for all. We are united in our efforts, and because of our size there is not a differentiation between "school site" and district. We do not have enough staff or community members to form more than one site council. The schools to share the Site Council are: Van Duzen Elementary (K-8), Southern Trinity High(9-12) and Mt. Lassic Continuation (9-12).

7. Demographic Information:
(*Southern Trinity Joint Unified School District*_ has a student population of 112 and is located in a rural *setting in southern Trinity county*.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? X No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

This is very difficult number to achieve if the total number of students and teachers in the school is small. There are many small districts with two or more small schools which share a common community, and often a common administration.

For example, our elementary school has a student enrollment of 61, while our high school has an enrollment of 42. In our case the principal and the superintendent of the entire district is the same person. In our situation our two schools are located on the same piece of property. The parents and community members are the same in both cases, and the total number of teaching staff is small (10 total- 4 at the elementary, 5 at the high school, and one shared special ed teacher.)

In this case, it makes sense that a joint schoolsite council could easily function for multiple schools in this education setting, and a joint schoolsite council would also provide a savings in time and resources in a small community.

To summarize the situation in our area:

1. The number of principals in our district.- 1
2. The number of students at Van Duzen- 61, Southern Trinity High-42, Mt. Lassic-5
3. The number of teachers at Van Duzen- 4, Southern Trinity-5 , Mt. Lassic-1, and 1 Special Education teacher for the district
4. All schools have a common administration, and shared services.

All schools have geographic proximity, less than 50 yards distance

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL- COMPOSITION OF MEMBERS

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	5	0	5	2

Local educational agency: Temple City Unified School District	Contact name and recipient of approval/denial notice: Kate Franceschini	Contact person's e-mail address: kfranceschini@tcusd.net
Address: (City) (State) (ZIP) 9700 E. Las Tunas Drive, Temple City CA 91780		Phone (and extension, if necessary): 626/548-5006 Fax number: 626/614-8104
Period of request: (month/day/year) From: 3 -10 -2012 To: 3 -10 -2014	Local board approval date: (Required) 1 -11 -2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

   EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) ***EC* 52852**
   Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high school site council and 10 members for elementary school site council).

3. Previously approved Waiver No: **33-3-2010-W-20**. SBE approval **July 15, 2010**
   Renewals of waivers must be submitted two month before the active waiver expires.

4. Collective bargaining unit information.

   Does the district have any employee bargaining units? ___ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 11/21/11

   Name of bargaining units and representative(s) consulted: CA School Employees Association: 105 (White Collar) Anita Aemmer and 823 (Blue Collar) Art Contreras. Temple City Education Association: (Teachers) Debra Maurey

   The position(s) of the bargaining unit(s): ___ Neutral _X_ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Stephen Edo (principal), Reggie Rios (teacher), Vincent Ouyang (student), and Denice Rougeau-Gerlach (parent)

   Date advisory committee/council reviewed request: December 9, 2011

   _X_ Approve ___ Neutral ___ Oppose

   Were there any objection? Yes ___ No _X_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in this school: Indicate why a composition waiver is needed rather than this school sharing a SSC with another school per the SBE Waiver Policy for shared SSC's:
A composition waiver is needed rather than the Dr. Doug Sears Learning Center sharing a SSC with Temple City High School because the DDSLC uses a different curriculum than the high school to meet the specific needs of the students. The school also has its own principal and a full-time counselor to further help this special population of students succeed.

8. Demographic Information:
Temple City is a small city located in Los Angeles County. Dr. Doug Sears Learning Center is a continuation high school serving students in grades 9-12 with a 2011 CBEDS enrollment of 51. The school has a principal, counselor, and 3.60 teachers. The school has open enrollment and a population that enters and leaves at any time during the school year.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? X No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: Chelsea Kang Smith	Title: Superintendent	Date: 1 -11 -2012
Signature of SELPA Director (only if a Special Education Waiver) N/A		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

First Time Waiver: X
Renewal Waiver: __

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
2	0	7	6	4	1	4

Local educational agency: Yosemite Unified School District	Contact name and Title: Dr. Randal Haggard, Alternative Ed. Principal	Contact person's e-mail address: rhaggard@yosemiteusd.com
Address: (City) (State) (ZIP) 50200 Road 427 Oakhurst CA 93644		Phone (and extension, if necessary): 559-683-8801 ext. 364 Fax number: 559-658-2359
Period of request: (month/day/year) From: 04/17/2012 To: 04/16/2014	Local board approval date: (Required) April 16, 2012	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:

   EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.

   EC 52852 Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
   Read SBE Waver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
   Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval.
   Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.
   Does the district have any employee bargaining units? ___ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Yosemite Teachers Association – 3-26-2012; California School Employees Association – 3-23-2012

   Name of bargaining units and representative(s) consulted: Yosemite Teachers Association – Deborah Brown; California School Employees Association – Danielle Vawter

   The position(s) of the bargaining unit(s): ___ Neutral X Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Yosemite Unified School District Advisory Committee

Date advisory committee/council reviewed request: March 26, 2012

X Approve ___ Neutral ___ Oppose

Were there any objections? Yes ___ No X (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at ~~each~~ school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

See attached

8. Demographic Information: Yosemite Unified School District has a student population of 1858 and is located in a rural area in Madera County. See attached sheet for information on the individual schools in the alternative education program.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? X No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: District Superintendent	Date: 4-17-2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Yosemite Unified School District

1. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

Yosemite Unified School District has a total of 8 alternative education schools with a combined enrollment (as of March 2012) of 148 students; the same person serves as principal for all of the schools. Enrollment and number of teachers at each site is: Ahwahnee High School, 20 students, one teacher (plus one student on independent study); Campbell Community Day High School, 11 students, one teacher; Evergreen High School, 48 students, 1.5 teachers; Foothill High School, 9 students, 2 teachers (plus 4 independent study students); Meadowbrook Community Day School, 7 students; one teacher; Mountain View High School, 16 students, one teacher; Raymond Granite High School, 7 students, one teacher; Yosemite Falls Education Center, 24 students, 2 teachers (includes 18 students in 9-12, 6 in K-8, and one independent study).

The schools share the same administration and the same curriculum as well as the same counselor and office staff.

Four of the schools are located adjacent to the district's comprehensive high school; one is located adjacent to a comprehensive elementary school and another is less than 5 miles from that school; two necessary small schools are located within 20 miles of the comprehensive high school campus. Students who attend the alternative education schools typically have attended one of the district's comprehensive schools prior to enrolling in the alternative schools. Many return to the comprehensive schools after a period of time in an alternative school.

We are requesting this waiver to allow one site council for all schools because of the small size of the schools and the limited number of teachers and parents in each school. One council that represents all schools will be much more efficient and will provide the same direction for all schools.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-21

ITEM #W-21

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **San Jacinto Unified School District** on behalf of **San Jacinto Valley Academy Charter School** for a waiver of California *Education Code* Section 48000(c) and (d) relating to the requirement to offer transitional kindergarten for the 2012–13 school year. State law requires each elementary or unified school district to offer transitional kindergarten to all eligible students. Waiver Number: 44-3-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions:

Should a parent/guardian whose child's fifth birthday falls between November 2 and December 2 choose to enroll the child in San Jacinto Academy Charter School, they must be given the option to enroll in either:

a) A combination class including transitional kindergarten students and traditional kindergarten students
b) A traditional Kindergarten

It is understood by the CDE that the San Jacinto Valley Academy has identified four children with birthdays in this range.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In May, 2010, the State Board of Education (SBE) denied a request to waive California *Education Code (EC)* Section 48000(a), the requirement for admission to kindergarten. Currently, nine districts have submitted requests to waive *EC* Section 48000(c) and (d). However, no SBE discussion or action has occurred relating to waiving admission to transitional kindergarten.

SUMMARY OF KEY ISSUES

San Jacinto Unified School District on behalf of San Jacinto Valley Academy Charter School requests a waiver of *EC* Section 46300(g) relating to attendance for computing apportionments and of *EC* Section 48000(c) and (d), which relates to transitional

kindergarten. Senate Bill (SB) 1381 amended California *EC* to change the required birthday for admission to kindergarten and first grade and established a transitional kindergarten program beginning in the 2012–13 school year.

Kindergarten: A child needs to be 5 by:	First Grade: A child needs to be 6 by:
December 2 for the 2011–12 school year	December 2 for the 2011–12 school year
November 1 for the 2012–13 school year	November 1 for the 2012–13 school year
October 1 for the 2013–14 school year	October 1 for the 2013–14 school year
September 1 for the 2014–15 school year and each school year thereafter	September 1 for the 2014–15 school year and each school year thereafter

Senate Bill 1381 requires school districts to establish a transitional kindergarten program. A transitional kindergarten is the first year of a two-year kindergarten program that uses a modified kindergarten curriculum. Children are eligible for transitional kindergarten if they have their fifth birthday between:

- November 2 and December 2 for the 2012–13 school year;
- October 2 and December 2 for the 2013–14 school year;
- September 2 and December 2 for the 2014–15 school year and each school year thereafter.

Senate Bill 1381, when passed by the Legislature, was a significant policy decision for California's early learning system. First, it set a new state standard for traditional kindergarten admission, and second, it created a new developmentally appropriate transitional kindergarten offering to help better prepare older four year olds for success in kindergarten and later, in life. SB 1381 guarantees the placement of all children in kindergarten or transitional kindergarten and prevents the displacement of any child who would generally be eligible for traditional kindergarten. There are approximately 45,000 children statewide who are born between November 2 and December 2 for the 2012–13 school year. If children are denied admission to transitional kindergarten, they would be too old to enroll in state preschool and too young to enroll in traditional kindergarten. Because of this change in the entry date for traditional kindergarten, these children would have no educational options and would be required to wait an entire year to enroll in school. Additionally, these displaced children would be denied the unique educational experiences that the transitional kindergarten program provides. As the kindergarten age rolls back to eventually September 1 for the 2014–15 school year, SB 1381 guaranteed that students affected by the new kindergarten entry requirements would not be displaced. Displacement of any child would create equity issues because some transitional kindergarten students would be allowed to enroll in schools within their districts while others would need to wait an entire year to enroll.

The State Superintendent of Public Instruction, Tom Torlakson, and the California Department of Education fully support transitional kindergarten and continue to move forward with the transitional kindergarten implementation plan for the 2012–13 school year. Under current law, transitional kindergarten is a requirement for districts and charter schools and is a fully funded general education program.

While it would be optimal for each elementary school to offer a transitional kindergarten class, it is understood that San Jacinto Valley Academy Charter School has identified four students for the transitional kindergarten program during the 2012–13 school year. As a result, San Jacinto Valley Academy Charter School, would be required to offer these four students the option of enrolling in a transitional kindergarten class, a kindergarten class or a combination class of kindergarten and transitional kindergarten students.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver would have no known fiscal impact.

ATTACHMENT(S)

Attachment 1: Waiver Number and information regarding each waiver (1 page).

Attachment 2: San Jacinto Unified School District (44-3-2012) General Waiver Request (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Transitional Kindergarten Waivers								
Waiver Number	**District**	**Streamlined Waiver Policy**	**Period of Request**	**Demographic Information**	**Bargaining Unit, Representatives Consulted, Date, and Position**	**Local Board and Public Hearing Approval Date**	**Advisory Committee(s) Consulted, Date, and Position**	**Projected Number of Affected Students**
44-3-2012	San Jacinto Unified School District	Does not meet	7/1/2012 to 6/30/2013	The San Jacinto USD has a student population of 667 and is located in a rural area in Riverside County.	San Jacinto Valley Teacher's Association, Sandi Rawson, President **3/14/12** **Support**	April 17, 2012	School Leadership Team Committee **3/14/2012** **No objections**	4 students

Created by the California Department of Education on March 8, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	2	4	9

Local educational agency: San Jacinto Unified School District on behalf of San Jacinto Valley Academy, charter school	Contact name and Title: Dr. Shari L. Fox, Superintendent	Contact person's e-mail address: sfox@sanjacinto.k12.ca.us
Address: (City) (State) (ZIP) SJUSD, 2045 South San Jacinto Avenue, S. San Jacinto Avenue, CA 92583		Phone (and extension, if necessary): SJUSD - 951-929-7700 Charter School 951-631-6113
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2013	Local board approval date: (Required) April 17, 2012	Date of public hearing: (Required) April 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 14, 2012

   Name of bargaining unit and representative(s) consulted: SJVA Teacher's Association, Sandi Rawson, President

   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper **X** Notice posted at each school ___ Other: *(Please specify)*
   Posted at San Jacinto Valley Academy, Public Charter School grades K-12 in 5 different locations; Public notification board, 3 Admin. Office exterior/entrance doors, 3 entrance areas to the school, The school is one campus. District's Board Agenda; public meeting 4/17/12.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   School Leadership Team Committee

   Date the committee/council reviewed the waiver request: March 14, 2012

   Were there any objection(s)? No **X** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code Section 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2012-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

San Jacinto Valley Academy is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal, the reduced revenue to school districts and charter schools, and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have significant financial impact on San Jacinto Valley Academy and would be detrimental to the school's operations. San Jacinto Valley Academy would like to request a waiver from the State for the first year due to the uncertainty of the program.

This waiver would allow San Jacinto Valley Academy to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing Transitional Kindergarten. Without this waiver, San Jacinto Valley Academy incurs the cost of purchasing Transitional Kindergarten curriculum, implementing new Report Cards and assessments, training teachers, and preparing facilities for this new program. We do not have the fiscal resources to pay for these costs up front without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
San Jacinto Valley Academy has a student population of **667** and is located in a (*urban, **rural**, or small city etc.)*__ in **Riverside** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344)
No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Dr. Shari L. Fox, Superintendent	Title: Superintendent, San Jacinto Unified School District	Date: April 17, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-22

ITEM #W-22

CALIFORNIA STATE BOARD OF EDUCATION
JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by the **San Bernardino County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Maria Hernandez-Alexander to continue to provide services to students until December 30, 2012, under a remediation plan to complete those minimum qualifications. Waiver Number: 22-3-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of the waiver for Maria Alexander, pursuant to California *Education Code (EC) 33051* (a)(1). The educational needs of the pupils are not adequately addressed.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, the *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

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

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE website at
http://www.cde.ca.gov/re/lr/wr/hottopics.asp#Educational

Demographic Information: The San Bernardino County Office of Education has a student population of approximately 6,000, and is located in San Bernardino County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to December 30, 2012

Local board approval date(s): March 5, 2012

Public hearing held on date(s): March 5, 2012

Bargaining unit(s) consulted on date(s): February 22, 2012

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Name of bargaining unit/representative(s) consulted: San Bernardino Public Employees Association (SBPEA)/Bonnie Clark, and San Bernardino County Teachers Association (SBCTA)/Doreen Ramsey

Comments (if appropriate): Interpreters belong to SBPEA, which supports submission of this waiver; the teachers' association (SBCTA) has also responded that they support this waiver request.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☐ posting at each school ☒ other (specify) Board Agenda

Advisory committee(s) consulted: School site council. Student Services; Human Resources; SBPEA

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 8, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page).

Attachment 2: General Waiver Request (3 pages). (Original waiver request is signed and on file in the SBE Office or the Waiver Office.) Waiver Numbers, Districts, and Information Regarding Each Waiver:

Waiver Number	LEA	Interpreter	SBE Stream-lined Waiver Policy	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire	New or Renewal	Period of Request	Bargaining Unit Position	Fiscal Status
22-3-2012	San Bernardino COE (SBCOE)	Maria Hernandez-Alexander	No	ESSE 5/2008 3.7 Expressive 4.0 Receptive	NA	Hired 2/29/ 2000	Renewal	July 1, 2011, to Dec. 30, 2012	San Bernardino Public Employees Assoc./ Bonnie Clark San Bernardino County Teachers Assoc./ Doreen Ramsey Support	No Statewide Impact

This interpreter had a waiver for the 2009-10 school year. The SBCOE did not apply for a waiver for the 2010–11 school year. If the SBCOE had applied for a waiver, it would have been recommended for denial, as the interpreter did not have current assessment scores. The SBCOE was out of compliance for the 2010-11 school year. This is the third year that the interpreter (who has been aware of the pending requirement since 2002) has not been qualified. The interpreter still does not have current assessment scores. The School Site Council was not consulted regarding this current waiver request.

Created by the California Department of Education
May 25, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and

back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	1	0	3	6	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Bernardino County Office of Education	Denise J. Danne, Asst. Supt., H.R.	Denise_danne@sbcss.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 909-386-2440
601 North E Street	San Bernardino	CA	92415-0020	Fax Number: 909-386-2475

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **December 30, 2012**	**March 5, 2012**	**March 5, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3)**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: ___**Maria Hernandez-Alexander**_____

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **11-12-2007-W-4** and date of SBE Approval**: 03-14-08**
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **x** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 02-22-12

   Name of bargaining unit and representative(s) consulted: Bonnie Clark, San Bernardino Public Employees Association and Doreen Ramsey, San Bernardino County Teachers Association
   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate): Interpreters belong to SBPEA, which supports submission of this waiver; the teachers association (SBCTA) has also responded that they support this waiver request.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper ___ Notice posted at each school **X**_ Other: *(Please specify)* : Board Agenda

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: School site council. Student Services; Human Resources; San Bernardino Public Employees Association

   Date the committee/council reviewed the waiver request: 10-08-07

   Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job if certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)San Bernardino County Office of Education* has a student population of **appx. 6000** and is located in a _(all)_(*urban, rural, or small city etc.)* in _San Bernardino__ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent, Human Resources	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education
General Waiver Request – Educational Interpreter
Name of Interpreter: Maria Hernandez-Alexander
February 21, 2012

7. Required Attachments

1. Name, date and score of most recent interpreter assessment:
   Maria Hernandez-Alexander
   Tested May 2008
   Overall rating of 3.7

2. Copy of the latest Test Certification Page – **attached**
3. Name, dates, and scores of previous assessments – **n/a**
4. Date of hire: **02/29/2000**
5. Remediation plan:
   - Maria is enrolled in an "Introduction to Interpreter" course at Victor Valley College.
     Dates of class: 02/13/12 – 06/06/12
   - Maria is seeking information for future test dates.
   - Maria continues to review/study ASL/DVDs to improve vocabulary and structure.
   - Maria attends "Deaf Pizza Nights," "Deaf Starbucks Nights," and other like events in her area that allows her the opportunity to practice various signing styles. This is a requirement for students in the interpreter course she is enrolled in.
   - Maria receives mentoring from another employee who is RID certified on a monthly basis.

I, Maria Hernandez-Alexander, understand that my employment status as an Interpreter for the Deaf will be impacted, and I may not be able to continue my employment with San Bernardino County Office of Education if certification is not met, or a waiver granted.

Signatures:

_____

_____
Maria Hernandez-Alexander Date

_____

_____
Union Representative Date

_____

_____
Signature of Superintendent of Designee Date

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-23

California Department of Education
Executive Office
SBE-005 General (REV. 08/2011)

ITEM #W-23

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by the **Shasta County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Diana Davis to continue to provide services to students until June 30, 2013, under a remediation plan to complete those minimum qualifications. Waiver Number: 49-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of the waiver for Diana Davis, pursuant to California *Education Code (EC) 33051* (a)(1). The educational needs of the pupils are not adequately addressed.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

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

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE website at
http://www.cde.ca.gov/re/lr/wr/hottopics.asp#Educational

Demographic Information: The Shasta County Office of Education has a student population of 220 students with special needs, and is located in a rural area in Shasta County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2012, to June 30, 2013

Local board approval date(s): April 11, 2012

Public hearing held on date(s): April 11, 2012

Bargaining unit(s) consulted on date(s): February 22, 2012

Name of bargaining unit/representative(s) consulted: California School Employees Association (CSEA), Chapter 642/Daniel Coyne, President; Ron Smith, Past President; Joan Nevarez, Labor Representative

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Community Advisory Committee (CAC)

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 14, 2012, and April 10, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page).

Attachment 2: General Waiver Request (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

:

List of Waiver Numbers, Districts, and Information Regarding Each Waiver

Waiver Number	LEA	Interpreter	SBE Stream-lined Waiver Policy	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire	New or Renewal	Period of Request	Bargaining Unit Position	Fiscal Status
49-4-2012	Shasta COE	Diana Davis	No	EIPA 3/10/ 2012 3.7	EIPA 9/21/2007 2.8 EIPA 3/27/2009 3.5 EIPA 3/12/2010 3.4 EIPA 8/21/2010 3.5 EIPA 1/29/2011 3.7 EIPA 8/21/2011 3.7	Hired 3/26/2007	Renewal	July 1, 2012, to June 30, 2013	California School Employees Association, Chapter 642 Daniel Coyne, President; Ron Smith, Past President; Joan Nevarez, Labor Representative Support	No Statewide Impact

This is the Shasta COE's fourth waiver request on behalf of this interpreter.

Created by the California Department of Education

May 24, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and

back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	**ymarley@shastacoe.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
"Attention: Yvette Marley" **1644 Magnolia Avenue Redding CA 96001**	**(530) 242-2298** Fax Number: **(530) 222-8582**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2012** To: **June 30, 2013**	***"4-11-12"***	**April 11, 2012**

LEGAL CRITERIA

1 1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California*

2 *Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Diana Davis**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **13-11-2010-W-21** and date of SBE Approval **July 13, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 21, 2012; March 26, 2012; March 27, 2012**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter 642 President: Daniel Coyne, Past President: Ron Smith, Labor Representative: Joan Nevarez**

The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

Comments (if appropriate): **See attached "Remediation Plan" signed by Daniel Coyne, CSEA Chapter 642 President**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_**X**_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee

Date the committee/council reviewed the waiver request: **February 14, 2012; April 10, 2012**
Were there any objection(s)? No **X** Yes ___ (*If there were objections* p*lease specify)* **The waiver requests were presented twice to the CAC as the issue was not listed on the February 14, 2012 agenda. The "Committee Consent Sheets" from February 14, 2012 and April 10, 2012 as well as the April 10, 2012 agenda have been submitted for review.**

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)* **Shasta COE** has a student population of **220 students with special needs** and is located in a **rural area** in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"SCOE Superintendent"***	***"4-11-12"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Diana Davis

From: Allison Rideout

RE: Remediation Plan to meet Educational Interpreter Regulations
(see CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 21, 2012

By July 1, 2009 the Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) required all educational interpreters to have achieved RID certification, or an equivalent certification, in order to interpret in the K-12 classroom. In lieu of certification or equivalence, a score of 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE) is also accepted by the California Department of Education (CDE) as the minimum qualification standard. Your assessment history includes EIPA scores of 2.8 on September 21, 2007, 3.5 on March 27, 2009, 3.4 on March 12, 2010, 3.5 on August 21, 2010, 3.7 on January 27, 2011 and 3.7 on August 21, 2012. Additionally, your EIPA results from your March 10, 2012 assessment are still pending from Boy's Town. As a result, you are out of compliance with the state regulations required for educational interpreters that became effective July 1, 2009.

You have received ongoing notice of this requirement since 2007. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to) access to a Lead Educational Interpreter (LEI) who is RID certified with both NIC and Ed:K-12 certifications. The LEI is providing professional development training in the form of weekly one-on-one mentoring sessions within the K-12 classroom setting, as well as monthly Educational Interpreter Meetings (conducted in sign language) where resources, training opportunities, and knowledge specific to the SCOE educational interpreting environment are presented. Additionally, an Educational Interpreter webpage housing a variety of support links to ASL on-line dictionaries, interpreter resources, professional organizations, and professional development opportunities has been set up and is accessible to each SCOE educational interpreter.

The SCOE LEI has also coordinated with the Shasta County SELPA, the FairView Learning Program, Trix Bruce, and the Boys' Town Research Hospital to offer a variety of tuition-paid professional development opportunities in the form of two workshops and four EIPA video conferences to help meet the conditions of your 2011-12 school year waiver.

Additionally, the Shasta County SELPA working with Shasta College and the Economic Workforce Development office, has, with financial support from other area agencies, initiated and set up the ***SELPA: Interpreter Professional Development Lab*** in order to offer upper division ASL classes, and access to an extensive ASL/Interpreting Library to the SCOE educational interpreters. Offering these local and distance education courses, workshops, and continued access to a Lead Educational Interpreter is providing approximately 327 hours of training during the 2011-12 school year to assist you with attaining the CDE's certification requirement.

This letter is to inform you that the SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE). If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2012-13 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2011-12 school year provided you meet the conditions outlined in the State Board of Education's disposition letter dated July 19, 2011 (see attached). Successfully meeting the conditions outlined in that letter, as well as your 2011-12 remediation plan, is vital to your 2012-13 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an approved assessment score of 4.0 or higher by June 30, 2012 may result in your dismissal from SCOE employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Daniel P. Coyne" "*Yvette Marley"* *"Jodie VanOrnum"* *"Diana Davis"*
CSEA Representative Yvette Marley Jodie VanOrnum
Diana Davis
Chapter 642 SCOE Lead Ed Interpreter SCOE Special Ed Director
Employee
RID Certified
NIC & Ed: K-12

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-24

ITEM #W-24

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by nine districts to waive portions of California *Education Code* Sections 46300(g) and 48000(c) and (d) relating to transitional kindergarten for the 2012–13 school year. State law requires each elementary or unified school district to offer transitional kindergarten to all eligible students. Waiver Numbers: Beaumont Unified School District 3-3-2012 Hemet Unified School District 64-1-2012 Lake Elsinore Unified School District 82-1-2012 Menifee Union Elementary School District 88-1-2012 Moreno Valley Unified School District 43-4-2012 Perris Elementary School District 10-4-2012 San Jacinto Unified School District 6-3-2012 Temecula Valley Unified School District 153-2-2012 Val Verde Unified School District 8-4-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial for the following reasons:

- *Education Code* (*EC*) Section 46300(g) pursuant to *EC* Section 33050(a)(11); this section addresses attendance for computing apportionments to school districts, minimum instructional minutes and days, and is non-waivable.

- *Education Code* Section 48000(a) and (c); approval of these waivers would not adequately address the educational needs of pupils within the meaning of *EC* Section 33051(a)(1). In addition, approval could set a precedent for denying transitional kindergarten entry to eligible students throughout the state and possibly displace hundreds, if not thousands, of children who would otherwise be eligible to attend school.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In May, 2010, the State Board of Education (SBE) denied a request to waive *EC* Section 48000(a), the requirement for admission to kindergarten. However, no SBE discussion or action has occurred relating to waiving admission to transitional kindergarten.

SUMMARY OF KEY ISSUES

The districts listed on Attachment 1 request a waiver of *EC* Section 46300(g) relating to attendance for computing apportionments and of *EC* Section 48000(c) and (d), which relates to transitional kindergarten. Senate Bill (SB) 1381 amended California Education Code to change the required birthday for admission to kindergarten and first grade and established a transitional kindergarten program beginning in the 2012–13 school year.

Kindergarten: A child needs to be 5 by:	First Grade: A child needs to be 6 by:
December 2 for the 2011–12 school year	December 2 for the 2011–12 school year
November 1 for the 2012–13 school year	November 1 for the 2012–13 school year
October 1 for the 2013–14 school year	October 1 for the 2013–14 school year
September 1 for the 2014–15 school year and each school year thereafter	September 1 for the 2014–15 school year and each school year thereafter

Senate Bill 1381 requires school districts to establish a transitional kindergarten program. A transitional kindergarten is the first year of a two-year kindergarten program that uses a modified kindergarten curriculum. Children are eligible for transitional kindergarten if they have their fifth birthday between:

- November 2 and December 2 for the 2012–13 school year;
- October 2 and December 2 for the 2013–14 school year;
- September 2 and December 2 for the 2014–15 school year and each school year thereafter.

Senate Bill 1381, when passed by the Legislature, was a significant policy decision for California's early learning system. First, it sets a new state standard for traditional kindergarten admission, and second, it creates a new developmentally appropriate transitional kindergarten offering to help better prepare older four year olds for success in kindergarten and later in life. SB 1381 guarantees the placement of all children in kindergarten or transitional kindergarten and prevents the displacement of any child who would generally be eligible for traditional kindergarten. There are approximately 45,000 children statewide who are born between November 2 and December 2 for the 2012–13 school year. If children are denied admission to transitional kindergarten, they would be too old to enroll in state preschool and too young to enroll in traditional kindergarten. Because of this change in the entry date for traditional kindergarten, these children would have no educational options and would be required to wait an entire year to enroll in school. Additionally, these displaced children would be denied the unique educational experiences that the transitional kindergarten program provides. As the

SUMMARY OF KEY ISSUES (cont.)

kindergarten age rolls back to eventually September 1 for the 2014–15 school year, SB 1381 guaranteed that students affected by the new kindergarten entry requirements would not be displaced. Displacement of any child would create equity issues because some transitional kindergarten students would be allowed to enroll in schools within their districts while others would need to wait an entire year to enroll.

The State Superintendent of Public Instruction, Tom Torlakson, and the California Department of Education fully support transitional kindergarten and continue to move forward with the transitional kindergarten implementation plan for the 2012–13 school year. Under current law, transitional kindergarten is a requirement for districts and charter schools and is a fully funded general education program.

Approval of these waiver requests would not meet the educational needs of children who have their 5th birthdays between November 2 and December 2 for the 2012–13 school year. These students would be disadvantaged and denied a developmentally appropriate educational program by not being allowed to enroll in kindergarten or transitional kindergarten while their peers from other districts would be allowed to enroll in transitional kindergarten. While it would be optimal for each elementary school to offer a transitional kindergarten class, it is understood that some districts may not have the number of students or facilities to do this, however each district would be required to offer a transitional kindergarten class or a combination class of kindergarten and transitional kindergarten students.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver would result in declining enrollment for these districts, as well as a possible decline in kindergarten teacher positions.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information regarding each waiver. (2 pages)

ATTACHMENT(S) (cont.)

Attachment 2: Beaumont Unified School District (3-3-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Hemet Unified School District (64-1-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Lake Elsinore Unified School District (82-1-2012) General Waiver Request (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Menifee Union Elementary School District (88-1-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Moreno Valley Unified School District (43-4-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Perris Elementary School District 10-4-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 8: San Jacinto Unified School District (6-3-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Temecula Valley Unified School District (153-2-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.

Attachment 10: Val Verde Unified School District (8-4-2012) General Waiver Request (3 pages) (Original waiver request is signed and on file in the Waiver Office.

Districts Requesting Transitional Kindergarten Waivers								
Waiver Number	**District**	**Streamlined Waiver Policy**	**Period of Request**	**Demographic Information**	**Bargaining Unit, Representatives Consulted, Date, and Position**	**Local Board and Public Hearing Approval Date**	**Advisory Committee(s) Consulted, Date, and Position**	**Projected Number of Affected Students**
3-3-2011	Beaumont Unified School District	Does not meet.	7/1/2012 to 6/30/2013	The Beaumont USD has a student population of 8,666 and is located in a small city in Riverside County.	Beaumont Teachers Association, Trina Brown, Vice President California Support Educators Association, Judy Peterson, President **2/6/2012 and 2/7/2012 Support**	February 14, 2012	District Advisory Committee **2/7/2012 No Objections**	57 students
64-1-2012	Hemet Unified School District	Does not meet.	7/1/2012 to 6/30/2013	The Hemet USD has a student population of 21,817 and is located in a small city in Riverside County.	Hemet Teachers Association, James Brigham, President **2/1/2012 Support**	February 7, 2012	District Advisory Committee; District English Learner Advisory Committee **1/26/2012 No Objections**	128 students
82-1-2012	Lake Elsinore Unified School District	Does not meet.	7/1/2012 to 6/30/2013	The Lake Elsinore USD has a student population of 21,850 and is located in an urban community in Riverside County.	Lake Elsinore Teachers Association, Bill Cavanaugh, President **2/2/2012 Support**	February 9, 2012	Principals Council, Curriculum Advisory Council Chair, PTA President **2/2/2012 No Objections**	138 students
88-1-2012	Menifee Union Elementary School District	Does not meet.	7/1/2012 to 6/30/2013	Menifee Union ESD has a student population of 8,683 and is located in a semi-rural area of Riverside County.	Menifee Teacher Association, Jody Sanchez, President **2/8/2012 Support**	February 14, 2012	Quail Valley Elementary School Site Council **2/8/2012 No Objections**	52 students
43-4-2012	Moreno Valley Unified School District	Does not meet.	7/1/2012 to 6/30/2013	The Moreno Valley USD has a student population of 35,868 and is located in a city in Riverside County.	Moreno Valley Educator's Association, Janet MacMillan, President **2/8/2012 and 3/15/2012 Support**	April 10, 2012	District Kindergarten Subject Advisory Council **4/12/2012 No Objections**	225 students

10-4-2012	Perris Elementary School District	Does not meet.	7/1/2012 to 6/30/2013	The Perris ESD has a student population of 5,836 and is located in a semi-rural area in Riverside County.	Perris Elementary Teachers Association, Francine Perry, President **3/22/2012** **Support**	April 12, 2012	District English Learner Advisory Committee **3/22/2012** **No Objections**	74 students
6-3-2012	San Jacinto Unified School District	Does not meet.	7/1/2012 to 6/30/2013	The San Jacinto USD has a student population of 9,200 and is located in a small city in Riverside County.	San Jacinto Teachers Association, Stefanie Seward, President **1/31/2012 and 2/1/2012** **Neutral**	February 14, 2012	District Advisory Committee **3/2/2012** **No Objections**	65 students
153-2-2012	Temecula Valley Unified School District	Does not meet.	7/1/2012 to 6/30/2013	Temecula Valley USD has a student population of 28,507 and is located in an urban city in Riverside County.	Temecula Valley Educator Association, Chris Lindberg, President **2/16/2012** **Support**	March 6, 2012	Transitional Kindergarten Committee **2/15/2012** **No Objections**	163 students
8-4-2012	Val Verde Unified School District	Does not meet	7/1/2012 to 6/30/2013	Val Verde USD has a student population of 19, 680 and is located in Riverside County	Val Verde Teachers Association Albert Trudel, President **1/6/2012** **Support**	April 10, 2012	Transitional Kindergarten Committee **1/6/2012** **No Objections**	50 students
						Created by the California Department of Education on March 8, 2012		

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	6	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Beaumont Unified School District	Dr. Maureen Latham, Assistant Superintendent, Instructional Support Services	mlatham@beaumontusd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 951-845-1631 ext. 316
500 Grace Ave.	Beaumont	CA	92223	Fax Number: 951-845-1043

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2012 To: June 30, 2013	February 14, 2012	February 14, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48000 (c) and (d) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. NO

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 7, 2012

   Name of bargaining unit and representative(s) consulted: Beaumont Teachers Association, Trina Brown, Vice President
   California Support Educators Association, Judy Petersen, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _ __ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* Notice posted a the District Office, Beaumont Library, Beaumont Civic Center

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: February 7, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EDUCATION CODE SECTION 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Beaumont Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-2013 budget.

The waiver would allow the Beaumont Unified School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Beaumont Unified School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers and para-educators, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
Beaumont Unified School District has a student population of __**8666**_____ and is located in a **small city**__ in ___**Riverside**_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: District Superintendent	Date:

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Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _XX_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency: Hemet Unified School District	Contact name and Title: Dr. Sally Cawthon, Assistant Superintendent, Educational Services	Contact person's e-mail address: scawthon@hemetusd.k12.ca.us
Address: (City) (State) (ZIP) 1791 W. Acacia Avenue, Hemet, CA 92545		Phone (and extension, if necessary): 951-765-5100 ext 3000 Fax Number: 951-765-5119
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2013	Local board approval date: (Required) February 7, 2012	Date of public hearing: (Required) February 7, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. **NO**

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 1, 2012

   Name of bargaining unit and representative(s) consulted: Hemet Teachers Association, James Brigham, President

   The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: January 26, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EDUCATION CODE SECTION 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Hemet Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the reduced revenue to school districts, this would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the program.

This waiver would allow the Hemet Unified School District to continue to offer regular kindergarten services without incurring the additional costs of planning for and implementing Transitional Kindergarten. Without this waiver, the Hemet Unified School District incurs the cost of purchasing Transitional Kindergarten curriculum, implementing new Report Cards and assessments, training teachers, and preparing facilities for this new program. We do not have the resources to pay for these costs up front without a guarantee of receiving ADA for the Transitional Kindergarten students.

8. Demographic Information:
Hemet Unified School District has a student population of __**21,817**_____ and is located in a __(*urban, rural, or* ***small city*** *etc.)*__ in ___**Riverside**_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: District Superintendent	Date: 2-7-12

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Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

Transitional Kindergarten WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_

Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	5	1	7	6

Local educational agency: Lake Elsinore Unified School District	Contact name and Title: Dr. Alain Guevara Assistant Superintendent, Instructional Support Services		Contact person's e-mail address:alain.guevara@leusd.k12.ca.us
Address: (City) (State) (ZIP) 545 Chaney Street Lake Elsinore California 92530			Phone (and extension, if necessary): (951) 253-7000 X5298 Fax Number: (951) 253-7061
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2013	Local board approval date: (Required) February 9, 2012		Date of public hearing: (Required) February 9, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48000 (c) (d) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. N/A

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 2, 2012

   Name of bargaining unit and representative(s) consulted: Lake Elsinore Teachers Association/Bill Cavanaugh, Bargaining team member

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __X_ Notice posted at each school __X_ Other: *(District Website)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Principals Council , Curriculum Advisory Council Chair, PTA President

   Date the committee/council reviewed the waiver request: February 2, 2012 / February 3, 2012

   Were there any objection(s)? No __X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48000 (c) (d)
(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:
(1) ~~In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Lake Elsinore Unified School District would like to request a one year waiver from EC 48000 (c) (d) and not enroll students from November 2, 2012 through December 2, 2012 in a Transitional Kindergarten program due to the financial hardship and costly program implementation in our district that will need to cut $15 million dollars in the 2012-2013 school year. The district is requesting to serve all students that reach age 5 by November 1, 2012 in the kindergarten classroom while the November 2 through December 2 birthdates will have to enroll the following school year.

8. Demographic Information:

Lake Elsinore Unified School District has a student population of 21,850 and is located in an urban community in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? NoX ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent, Instructional Support Services	Date: February 2, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	1	1	6

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Menifee Elementary Union School District	Karen Valdes Asst. Supt. Curriculum & Instruction	kvaldes@menifeeusd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
30205 Menifee Rd.	Menifee	CA	92584	(951) 672-1851 ext. 288 Fax Number: (951) 244-7563

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2012 To: June 30, 2013	February 14, 2012	February 14, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 8, 2012

   Name of bargaining unit and representative(s) consulted: Menifee Teacher Association, Jody Sanchez, President

   The position(s) of the bargaining unit(s): ___ Neutral _**X**_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): Fully supports the submission of the waiver.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _**X**__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: February 8, 2012

   Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*
   Quail Valley Elementary School Site Council

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:

(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 or the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

~~(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of section 46300, a school district or charter school shall ensure the following:~~

~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to transitional kindergarten program maintained by the school district.~~

(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

~~(d) For purposes of this section, "transitional kindergarten" means the first year of a two year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Menifee Elementary Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-2013 budget.

The waiver would allow the Menifee Elementary Unified School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Menifee Elementary Unified School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
(***District****/school/program)*__ has a student population of 8,683 and is located in a semi-rural (*urban, rural, or small city etc.)*__ in __Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: February 15, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	1	2	4

Local educational agency: Moreno Valley Unified School District	Contact name and Title: Dr. Martinrex Kedziora, Assistant Superintendent, Educational Services		Contact person's e-mail address: mkedziora@mvusd.net
Address: 25634 Alessandro Blvd.	(City) Moreno Valley	(State) CA	(ZIP) 92553
			Phone (and extension, if necessary): (951) 571-7500, Ext. 17287 Fax Number: (951) 571-7550
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2013	Local board approval date: (Required) April 10, 2012		Date of public hearing: (Required) April 10, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 8, 2012, March 15, 2012

   Name of bargaining unit and representative(s) consulted: Moreno Valley Educator's Association, Janet MacMillan, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   District
   Kindergarten Subject Advisory Council (1 representative per school site)

   Date the committee/council reviewed the waiver request: April 12, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EDUCATION CODE SECTION 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Moreno Valley Unified School District is seeking a one-year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-13 budget.

The waiver would allow the Moreno Valley Unified School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Moreno Valley Unified School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers and para-educators, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
Moreno Valley Unified School District__ has a student population of __35,868__ and is located in a city__ in __Riverside_ County.

✓ **Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344)** No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 26, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	1	9	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Perris Elementary School District	Jean Marie Fréy, Assistant Superintendent, Educational Services	frey@perris.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
143 E. First St.	Perris	CA	92570	951-657-3118 Fax Number: 951-940-5115

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2012 To: June 30, 2013	April 12, 2012	April 12, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48000 (c) and (d) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. NO

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 22, 2012

   Name of bargaining unit and representative(s) consulted: Perris Elementary Teachers Association, Francine Perry, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _ __ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* Notice posted a the District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: District English Learner Advisory Committee

   Date the committee/council reviewed the waiver request: March 22, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EDUCATION CODE SECTION 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Perris Elementary School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-2013 budget.

The waiver would allow the Perris Elementary School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Perris Elementary School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers and para-educators, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
Perris Elementary School District as a student population of 5,836 and is located in a semi-rural community in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: District Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	2	4	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Jacinto Unified School District	Marianna Vinson, Assistant Superintendent of Educational Services	mvinson@sanjacinto.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2045 S. San Jacinto Ave.	San Jacinto	CA	92583	(951) 929-7700 ext 4260 Fax Number: (951) 929-2890

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2012 To: June 30, 2013	February 14, 2012	February 14, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Education Code Section 48000(c)1 and 48000(d)

Circle One: ***EC*** or *CCR*

Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 1/31/12; 2/1/12

Name of bargaining unit and representative(s) consulted: San Jacinto Teachers Association, Stefanie Seward, President

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* City Hall, Public Library, and the District Office of San Jacinto Unified

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: *District Advisory Committee* (Members: Marianna Vinson, Iris Gutierrez, Rhonda Bailey, Dana Dinsmore, Anaya Asusena Anaya Martinez, Holly Hunter, Sariah Leffel, Kathy Duguid, Nancee Krickl, Maria Brookes, Shannon Webster, Sam Shannon, Donna LoPresto, Shelley Mendez, Lesa Frailey, Julie Fellows, Maria Jimenez, Samantha Bentley, Jessica Chi, Garry Packham, Joe Dominquez, Charles Fischer, Aaron Holbrook, and Maria Valencia)

Date the committee/council reviewed the waiver request: March 2, 2012

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:

(1) December 2 of the 2011-12 school year.

(2) November 1 of the 2012-13 school year.

(3) October 1 of the 2013-14 school year.

(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board determines that the admittance is in the best interests of the child.

(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

~~(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~

~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~

(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

~~(d) For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

This waiver would allow the San Jacinto Unified School District to waive the Transitional Kindergarten program for the 2012-13 school year.

In light of the Governor's budget proposal we are thrust into a state of uncertainty. We are proactively seeking to establish certainty for our school district in relation to Transitional Kindergarten.

The San Jacinto Unified School District is currently expecting a $6.5 million dollar budget deficit. Implementing Transitional Kindergarten now would add an additional cost of (approximately) $250,000 dollars with no guarantee of receiving ADA for participating students.

This waiver would allow the San Jacinto Unified School District to continue to offer regular kindergarten services without incurring the additional costs of planning for and implementing Transitional Kindergarten. Without this waiver the San Jacinto Unified School District incurs the cost of purchasing Transitional Kindergarten curriculum, implementing new Report Cards and Assessments, training teachers and preparing facilities for this new program. We do not have the resources to pay for these costs upfront without a guarantee of receiving ADA for the Transitional Kindergarten students.

The San Jacinto Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement. Once the state has determined, with certainty, the funding for the Transitional Kindergarten program we will comply with the law. As is determined with the final budget adoption we are prepared to do whatever it takes in the succeeding years (2013-2014 and beyond) to implement the Transitional Kindergarten program.

8. Demographic Information:
(*District/school/program)* San Jacinto Unified School District has a student population of 9,200 students and is located in a small city in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent of Educational Services	Date: February 14, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	1	7	5	9	2

Local educational agency: Temecula Valley Unified School District	Contact name and Title: Andree Grey, Director Curriculum, Instruction & Assessment	Contact person's e-mail address: agrey@tvusd.k12.ca.us
Address: (City) (State) (ZIP) 31350 Rancho Vista Road, Temecula CA 92592		Phone (and extension, if necessary): (951) 506-7932 Fax Number: (951) 695-7121
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2013	Local board approval date: (Required) February 21, 2012	Date of public hearing: (Required) February 21, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 16, 2012

   Name of bargaining unit and representative(s) consulted: Temecula Valley Educator Association, Chris Lindberg, President

   The position(s) of the bargaining unit(s): ___ Neutral _**X**_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _**X**__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request:

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

February 15. 2012

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:

(5) December 2 of the 2011-12 school year.
(6) November 1 of the 2012-13 school year.
(7) October 1 of the 2013-14 school year.
(8) September 1 or the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:

(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

~~(c) As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of section 46300, a school district or charter school shall ensure the following:~~

~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to transitional kindergarten program maintained by the school district.~~

(4) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(5) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

~~(d) For purposes of this section, "transitional kindergarten" means the first year of a two year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Temecula Valley Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-2013 budget.

The waiver would allow the Temecula Valley Unified School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Temecula Valley Unified School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers and para-educators, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
(***District****/school/program)*__ has a student population of and is located in a small city (*urban, rural, or small city etc.)*__ in __Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: February 22, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	5	2	4	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Val Verde Unified School District	Michael R. McCormick, Assistant Superintendent, Education Services	mmccormick@valverde.edu

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
975 W. Morgan Street	Perris	CA	92571	951-940-6100 ext. 10401 Fax Number: 951-940-6121

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2012 To: June 30, 2013	April 10, 2012	April 10, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48000 (c) and (d) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Transitional Kindergarten

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. NO

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): January 6, 2012

   Name of bargaining unit and representative(s) consulted: Val Verde Teachers Association, Albert Trudel, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _ __ Notice in a newspaper __ _ Notice posted at each school _X__ Other: *(Please specify)* Notice posted a the District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: TK Committee – January 6, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EDUCATION CODE SECTION 48000 (c) and (d)

48000. (a) A child shall be admitted to a kindergarten maintained by the school district at the beginning of a school year, or at a later time in the same year if the child will have his or her fifth birthday on or before one of the following dates:
(1) December 2 of the 2011-12 school year.
(2) November 1 of the 2012-13 school year.
(3) October 1 of the 2013-14 school year.
(4) September 1 of the 2014-15 school year and each school year thereafter.

(b) The governing board of a school district maintaining one or more kindergartens may, on a case-by-case basis, admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian, subject to the following conditions:
(1) The governing board determines that the admittance is in the best interests of the child.
(2) The parent or guardian is given information regarding the advantages and disadvantages and any other explanatory information about the effect of this early admittance.

(c) ~~As a condition of receipt of apportionment for pupils in a transitional kindergarten program pursuant to subdivision (g) of Section 46300, a school district or charter school shall ensure the following:~~
~~(1) In the 2012-13 school year, a child who will have his or her fifth birthday between November 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.~~
(2) In the 2013-14 school year, a child who will have his or her fifth birthday between October 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.
(3) In the 2014-15 school year and each school year thereafter, a child who will have his or her fifth birthday between September 2 and December 2 shall be admitted to a transitional kindergarten program maintained by the school district.

(d) ~~For purposes of this section, "transitional kindergarten" means the first year of a two-year kindergarten program that uses a modified kindergarten curriculum that is age and developmentally appropriate.~~

(e) A transitional kindergarten shall not be construed as a new program or higher level of service.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Val Verde Unified School District is seeking a one year waiver of the Transitional Kindergarten program requirement for the 2012-13 school year for a child who will have his or her fifth birthday between November 2 and December 2. In light of the Governor's budget proposal and the suspension of funding for the Transitional Kindergarten program, the cost to implement the Transitional Kindergarten program would have a significant fiscal impact on the district and would be detrimental to the district's operations. The district would like to request a waiver from the State for the first year due to the uncertainty of the funding and statute changes to SB 1381 proposed in the Governor's 2012-2013 budget.

The waiver would allow the Val Verde Unified School District to continue to offer regular Kindergarten services without incurring the additional costs of planning and implementing the Transitional Kindergarten program. With the waiver, the Val Verde Unified School District saves the expense of developing an "age-appropriate" curriculum for Transitional Kindergarten students, purchasing new curriculum and instructional materials, developing, printing and implementing new report cards and assessments, training teachers and para-educators, and preparing facilities for the Transitional Kindergarten program. The district does not have the fiscal resources to pay for the expenses of the program without a guarantee of receiving ADA funding for the Transitional Kindergarten students.

8. Demographic Information:
Val Verde Unified School District has a student population of **19,680** and is located in ___**Riverside**_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: District Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-25

ITEM #W-25

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Mt. Diablo Unified School District** to waive California *Education Code* Section 47660 regarding the impact of Clayton Valley Charter High School Funding. Waiver Number: 136-2-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends that the State Board of Education (SBE) deny the waiver request per *Education Code (EC)* Section 33051(a)(6) because the request would substantially increase state costs. Further, as made evident in *EC* Section 33050(a)(8), statutes that govern local educational agency apportionments are not waivable. The section requested to be waived is in effect an apportionment statute, although not listed in EC Section 33050. Legislation is the appropriate remedy, as explained in greater detail below (see Summary of Key Issues).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE heard this waiver at its May 2012 meeting; the motion to accept staff recommendation and deny the waiver did not pass. If no action is taken at this (July 2012) meeting, by statute, the waiver will be deemed approved without conditions.

SUMMARY OF KEY ISSUES

Application of current law results in a gain or loss of funding for any unified school district, which is the sponsor of a conversion charter school (whether it be a county office approving a charter school is the authorizer or a district that initially denied the charter school is the sponsor). The loss (or gain) in school district apportionment as a result of this law is not an unintended consequence.

A petition for a charter school cannot be denied due to the fiscal impact on a school district.

Mt. Diablo is one of 14 districts that have lost funds due to the approval of a conversion charter school; the statewide adverse fiscal impact for these districts is $8.4 million. (Thirteen districts actually gained state funds as a result of the conversion charter school.)

Accordingly, CDE is recommending denial of this waiver request because legislation is the appropriate remedy, whether retroactive or prospective, for the following reasons: 1) current law contemplated a negative fiscal consequence; 2) to approve the request is tantamount to the SBE making an appropriation of Proposition 98 funds, which would either increase the Proposition 98 guarantee in the current and future years, or more likely to result in less funding for other local educational agencies; 3) approval would also create a precedent, wherein 13 other districts would likely immediately be requesting a similar waiver at a statewide cost of about $6.7 million; 4) all future adversely impacted unified school districts, due to conversion charter schools, would apply for a waiver; 5) it is conceivable that other apportionment matters may be brought before the SBE unless specifically exempted from the waiver process; and 6) under the constitution, only the Legislature may make an apportionment, thus the approval of this waiver, or future similar waivers, may subject the SBE to litigation.

An explanation in greater detail is as follows. Pursuant to *EC* Section 47660, conversion charter schools that are sponsored by unified school districts (USDs) are funded in a manner different than most other charter schools. The purpose of this provision of law is to prevent USDs from converting their district schools to charters and receiving additional funding at an increased cost to the state.

While these conversion charter schools receive the same block grant funding from the state as new start-up charter schools, the sponsoring USD's funding is adjusted either up or down due to the conversion charter. This adjustment does not occur for start-up charter schools or conversion charter schools that are sponsored by elementary or high school districts.

To adjust the USD's funding, the average daily attendance (ADA) of the conversion charter school is combined with the school district's ADA, and revenue limit funding is provided to the district based on the combined district and charter ADA. Then, an offset is made to the district revenue limit that is equivalent to the conversion charter school's ADA times the appropriate charter block grant rate. To the extent that the charter school receives more or less funding than it would if it were still part of the district (i.e., depending on whether the charter block grant rate is higher or lower than the district's revenue limit rate), that difference is added to, or subtracted from, the district's revenue limit funding.

In the case of Mt. Diablo USD, the district denied the Clayton Valley Charter High School (CVCHS) charter petition, but the Contra Costa County Office of Education approved the petition on appeal. The Mt. Diablo USD is still the sponsoring district, and the funding will work like any other conversion charter school in a USD, meaning the difference between the charter block grant rate and the district revenue limit will still be added to, or subtracted from, the district's revenue limit funding. The CVCHS is scheduled to open in the fall of 2012.

According to Mt. Diablo USD, it is a low wealth USD funded below the statewide average. Including the charter school's students in the district's revenue limit calculation and then having the district pay out to the charter general purpose block grant based on the statewide average high school district rate causes the district to lose $979.84 per unit of ADA at the school. This creates a loss of approximately $1.74 million annually at

a time when school funding has already been cut, and is proposed to be further reduced in the 2012–13 budget. This creates a significant hardship upon other students in the district. The district is asking to waive the provision of law that adjusts the district's revenue limit funds based on the charter ADA, thus holding the district's funding constant.

There are 27 charter schools that are funded pursuant to *EC* Section 47660 in the 2011-12 fiscal year. Of those, 14 charter schools effectively reduce the revenue limit funding of the sponsoring district, at an annual cost to these 14 districts of approximately $8.4 million.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Mt. Diablo USD has a student population of 34,650 and is located in a suburban city in Contra Costa County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2012, to June 30, 2014

Local board approval date(s): February 22, 2012

Public hearing held on date(s): February 22, 2012

Bargaining unit(s) consulted on date(s): Mt. Diablo Education Association, February 7, 2011.

Name of bargaining unit/representative(s) consulted: Mike Langley, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ other (specify) Notice to Contra Costa Times and District Office website.

Advisory committee(s) consulted: Budget Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 16, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, this waiver would increase state General Fund Proposition 98 costs by approximately $1.74 million annually.

ATTACHMENT(S)

Attachment 1: Mt. Diablo Unified School District General Waiver Request 136-2-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

First Time Waiver: _X_

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver**

Send Original plus one copy to:

Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and

back-up material to: waiver@cde.ca.gov

CD CODE						
0	7	6	1	7	5	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Mt. Diablo Unified School District	Deborah A. Cooksey Associate General Counsel	cookseyd@mdusd.org

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
1936 Carlotta Drive Concord CA 94519	(925) 682-8000, ext. 4063 Fax Number: (925) 680-2505

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/12 To: 6/30/14	2-22-12	2-22-12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 47660 Circle One: ***EC*** or *CCR*

   Topic of the waiver: Impact of CVCHS Conversion Funding

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **NO** and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): MDEA (Teachers' Union) on February 7, 2011

   Name of bargaining unit and representative(s) consulted: MDEA -- Mike Langley, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): "A District-neutral fiscal impact of the charter would be a good thing." Mike Langley

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised? Notice to Contra Costa Times and District Office Website

   _X_ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: sent via email on 2/16/12 to the Budget Advisory Committee

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Please See Attachment A

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please See Attachment B

8. Demographic Information:
(***District****/school/program)* *Mt. Diablo Unified School District* has a student population of 34,650 and is located in a Suburban City in Contra Costa County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Steven Lawrence, Ph.D. Superintendent	Date: February 23, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ATTACHMENT A

#6: MDUSD GENERAL WAIVER REQUEST
EDUCATION CODE SECTION TO BE WAIVED: 47660
CLAYTON VALLEY CHARTER HIGH SCHOOL FUNDING IMPACT

Waive the stricken through provisions of Ed Code Section 47660 which provides that:
"(a) For purposes of computing eligibility for, and entitlements to, general purpose funding and operational funding for categorical programs, the enrollment and average daily attendance of a sponsoring local educational agency shall exclude the enrollment and attendance of pupils in its charter schools funded pursuant to this chapter.

(b)(1) Notwithstanding subdivision (a), and commencing with the 2005-06 fiscal year, for purposes of computing eligibility for, and entitlements to, revenue limit funding, the average daily attendance of a unified school district, other than a unified school district that has converted all of its schools to charter status pursuant to 47606, shall include all attendance of pupils who reside in the unified school district and who would otherwise have been eligible to attend a noncharter school of the school district, if the school district was a basic aid school district in the prior fiscal year, ~~or if the pupils reside in the unified district and attended a charter school of that school district that converted to charter status o or after July 1, 2005.~~ Only the attendance of pupils described by this paragraph shall be included in the calculation made pursuant to paragraph (7) of subdivision (h) of Section 42238."

Practical Effect of Waiver

- The Clayton Valley Charter High School, a conversion charter, would be treated the same as a start-up charter and the funding difference between the District's unified rate and the high school rate, would not be borne by the remaining students and families of the district.

ATTACHMENT B

#7: MDUSD GENERAL WAIVER REQUEST
DESIRED OUTCOME/RATIONALE
CLAYTON VALLEY CHARTER HIGH SCHOOL FUNDING IMPACT

On January 11, 2012, Contra Costa County Office of Education approved the conversion of Clayton Valley High School to an independent charter school. CVHS is the District's second largest high school and houses approximately 5.47% of the District's pupils. Mt. Diablo USD is a low wealth unified district funded below the statewide average. The inclusion of the school's students in the District's revenue limit and then having the District pay out to the charter general purpose block grant based on the statewide average high school district rate causes the District to lose $979.84 per unit of ADA at the school. This creates a loss of approximately $1.74M annually at a time when school funding has already been cut, and is proposed to be further reduced in the 2012-13 budget. This creates a significant hardship upon the remaining students in the District.

Funding a comprehensive high school conversion charter in a unified district at the high school district rate ignores the reason the high school district rate is higher than the elementary rate. It is higher to help cover the costs of students who are more expensive to serve: continuation; community day; and other students at risk of dropping out of school. Comprehensive high school students are not that much more expensive to serve than elementary or middle school students due to the fact that State law mandates a single salary schedule for unified districts. However, under current scenario, the District will retain all of the expensive to serve students and will lose the funding with which to serve them.

If the effect is spread across the entire District, it results in a loss of $56.68 per unit of ADA (a 1.09% decrease) for all other schools in the District. However, many parents in the other communities in the District feel strongly that other feeder patterns should remain unaffected and the impact of this cut should be borne solely by the Clayton Valley feeder pattern. There are currently 3,504.68 units of ADA in the other schools that are part of the Clayton Valley feeder pattern. A small portion of two of the schools feeds into another high school attendance area, but their ADA is included in this calculation. Spreading the loss of revenue among these four elementary schools and two middle schools would create a loss of funding of $496.81 per unit of ADA (a 9.53% decrease) on these campuses, and would put their funding at $4,711.35/ADA, well below the statewide average for elementary school districts.

Maintaining this disparity also works against the State's intended objective of district unification and consolidation as it creates a penalty should any high school in the consolidation ever decide to convert to charter status.

Until now, conversion charter high schools have been predominantly limited to the Los Angeles Unified School District. If a school in LAUSD of 1,777 converts out of a district of 571,225, it comprises only 0.31% of that district's students. The conversion of the school in LAUSD creates a loss to the other LAUSD schools of $3.05 per ADA. In our District the loss is nearly 20 times that amount.

Through this waiver, the District seeks to neutralize the financial impact to the other students of the District.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-26

ITEM #W-26

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and/or 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Waiver Numbers: Helendale Elementary School District 27-3-2012 Little Lake City Elementary School District 41-4-2012 Tustin Unified School District 3-5-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waivers do not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by each district in its waiver application, the State Board of Education (SBE) finds that the districts' continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the districts would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of *Education Code (EC)* sections 41376 and/or 41378 will, if not waived, prevent the districts from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the districts' applications.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

Education Code Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, these districts are requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and/or subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The districts listed on Attachment 1 request flexibility to temporarily increase class sizes in kindergarten through grade three or grades one through three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008–09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

Each district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

The Department recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should any district exceed this new limit, the class size penalty would be applied per statute.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Helendale Elementary School District Specific Waiver Request (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Little Lake City Elementary School District Specific Waiver Request (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Tustin Unified School District Specific Waiver Request (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

***Education Code* sections 41376 and 41378: For Kindergarten: Overall average 31; No class larger than 33. For Grades 1-3: Overall average 30; no class larger than 32.**

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
27-3-2012	Helendale Elementary School District	**Requested**: July 1, 2012 to June 30, 2013 **Recommended**: July 1, 2012 to June 29, 2013	For K-3: Overall average 35; no class size larger than 35	For K-3: Overall average 35; no class size larger than 35	Helendale Professional Teachers Association, Virginia Price, President, 3/8/12 **Oppose**	March 14, 2012	Helendale Elementary, 3/8/12 **Objections**	$229,984	Positive	No
41-4-2012	Little Lake City Elementary School District	**Requested:** July 11, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K-3: Overall average 34; no class size larger than 35	For K-3: Overall average 34; no class size larger than 35	Little Lake Educators Association, Terry Tanori, President, 3/9/12 **Oppose**	April 17, 2012	District Advisory Committee and District English Learner Advisory Committee 3/8/12 **No Objections**	$1,695,729 each year	Qualified	No
3-5-2012	Tustin Unified School District	**Requested:** July 1, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For 1-3: Overall average 33; no class size larger than 35	For 1-3: Overall average 33; no class size larger than 35	Tustin Educators Association, Thomas Prendergast, 3/27/12 **Oppose** California State Employees Association, Irma Dicochea, President; 3/28/12 **Support**	April 30, 2012	Coordinating Council, 4/24/12 **Objections**	$884,000 each year	Positive	Yes 7/1/10 to 6/29/12

Created by the California Department of Education
May 10, 2012

27-3-2012

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: x
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE					
	6	7	7	3	6

Local educational agency: Helendale School District	Contact name and Title: Dr. Phillip R. Tenpenny, Superintendent	Contact person's e-mail address: phillip_tenpenny @helendale.k12.ca.us
Address: (City) (State) (ZIP) P.O. Box 249, Helendale, CA 92342		Phone (and extension, if necessary): (760) 952-1180 Fax number: (760) 952-1178
Period of request: (month/day/year) From: 07/01/2012 To: 06/30/2013	Local board approval date: (Required) March 14, 2012	

LEGAL CRITERIA

1. Authority for the waiver: EC Specific code section: 41382
   Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: (number) 41378 and 41376(a) , (c), and (d) Circle One: *EC* or *CCR*

   Brief Description of the topic of the waiver: Waiver for Class Size Penalty for grades Kindergarten through grade 3

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval _____
   Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

   Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 8, 2012

   Name of bargaining units and representative(s) consulted: Helendale Professional Teachers' Association (HPTA) Mrs. Virginia Price (President)

   The position(s) of the bargaining unit(s): ___ Neutral ___ Support _x__ Oppose (*Please specify why*)

   Comments (if appropriate): HPTA believes class sizes of 35 will weaken the instructional program.

5. Advisory committee or school site council that reviewed the waiver. Name: Helendale Elementary

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: March 8, 2012

___ Approve ___ Neutral x Oppose

Were there any objection? Yes _x_ No ___ (If there were objections please specify) Council members are concerned that students will not be able to receive the same level of attention and instruction that currently exists.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

See attached "Item #6: To Waive the Class Size Penalty (Grade K-3) Prospectively EC §41378 and §41376(a), (c), and (d)".

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The district requests a waiver to increase the district wide average number of pupils per each full-time equivalent (FTE) teacher for grades Kindergarten, from the current 31 per FTE to 35 per FTE. For grades 1-3, from the current 30 per FTE to 35 per FTE.

The Helendale Professional Teachers' Association Collective Bargaining Agreement (CBA) does not include language regarding a cap on class size averages.

To meet the requirements of EC §41378 and §41376, the district would need to continue staffing at current levels. The statewide budget crisis has affected the financial health of the district, putting district operations at risk. The district believes it necessary to reduce staffing levels in an effort to preserve student programs and district operations to remain solvent.

8. Demographic Information:
Helendale School District has a student population of 559 and is located in a rural location in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) x No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? x No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 14, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item #6: To Waive the Class Size Penalty (Grades K, 1-3) Prospectively
EC §41378 and §41376(a), (c) and (d)

41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.
~~(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.~~
~~(b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33).~~
~~(c) The total number of pupils by which the average class size in the district exceeds 31.~~
~~(d) The greater number of pupils as determined in (b) or (c) above.~~
~~(e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:
~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.~~
~~For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~
(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~
~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~
(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is

an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so

obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular school day. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular school day.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied. The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

March 26, 2012

Stel Cordano, Consultant
School Fiscal Services Division
California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Dear Ms. Cordano,

Thank you for your prompt response to our K-3 Class Size Penalty Waiver Request for the Helendale School District. Please be advised that this waiver is needed to prevent an adverse impact upon student learning particularly in the core subjects such as reading and mathematics. The District feels that the continued ability to maintain the delivery of instruction and required program offering in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties that the district would otherwise incur without the requested waivers.
Sincerely,

Phillip R. Tenpenny, Ph.D.
Superintendent

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	1	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Little Lake City School District	Maria A. Soto, Assistant Superintendent of Educational Services	maria_soto@littlelake.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
10515 S. Pioneer Blvd.	Santa Fe Springs	CA	90706	(562) 868-8241 ext. 2240 Fax number: (562) 484-0841

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/11/2012 To: 6/29/2014	April 17, 2012

LEGAL CRITERIA

1. Authority for the waiver: Education Code Specific code section: 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
Please see attachment.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: 41378 and 41376 (a)(b)(c) Circle One: (*EC*) or *CCR*

Brief Description of the topic of the waiver: Waiver of Class Size Penalty for grades K-3. The District requests to increase the average to 34:1 with no individual class exceeding 35:1.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: __N/A__ and date of SBE approval __N/A__
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _✓_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 9, 2012

Name of bargaining units and representative(s) consulted: Little Lake Educators Association - Terry Tanori

The position(s) of the bargaining unit(s): ___ Neutral ___ Support _✓_ Oppose (*Please specify why*)

Comments (if appropriate): Please see attachment.

5. Advisory committee or school site council that reviewed the waiver. Name: District Advisory Committee and District English Learner Advisory Committee

6.
Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: March 8, 2012

_✓_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _✓_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

7. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

Please see attachment.

8. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please see attachment.

9. Demographic Information:
Little Lake City School District has a student population of 4,750 students in grades K-8 and is located in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _✓_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _✓_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: Maria A. Soto	Title: Assistant Superintendent of Educational Services	Date: April 17, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Little Lake City School District – Specific Waiver Request Attachment

Item 1 – Authority for Waiver

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

Item 3 – Comments from Bargaining Unit

"The teacher's association, Little Lake Educators Association, believes that any further increase to class size is detrimental to our students and their academic progress and success."

Item 6 – Education Code section to be waived

Kindergarten:

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. ~~(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Grades 1-3:

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: ~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average~~

~~number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Item 7 – Desired outcome/rationale

Fiscal Distress

Little Lake City School District (District) has been managing a precarious budget situation for the last few years. Since the 2006-07 school year, District revenues have been reduced by approximately $6,362,000 for a 15.8% reduction. Since the 2008-09 school year the District has:

- Reduced the school year by five days
- Reduced all employees' salaries proportionately
- Increased K-3 class size from 20:1 to 30:1 currently
- Reduced Home to School Transportation
- Hard cap on benefits exercised
- Eliminated step movement for certificated staff for 2012-13
- Offered an Early Retirement Incentive

Additionally, large numbers of both certificated, classified and management personnel have been laid off through this period of time in all areas of the District. In spite of all of these reductions, the District has had a structural deficit problem, which simply put means that the District's expenditures exceed its revenues. The District has certified as Qualified during the 2011-12 Second Interim reporting period in spite of placing further assumptions in the area of reductions such as:

- Further increasing class sizes
- School closure
- Eliminating Home to School Transportation completely
- Negotiating additional furlough days

If the District is not successful in obtaining the waiver to increase class sizes in grades K-8, the District will be forced to maintain additional teachers for the 2012-13 school year, thereby increasing the expenditures of the District without a change to revenues causing the District to deficit spend even further and possibly resulting in a Negative certification in 2012-13 or 2013-14. The District has developed staffing plans based on the higher number of students enrolled, at the levels requested in the waivers requests. The penalty that our District would incur would be a total of $3,784,295.00 if the waiver is not granted. This figure includes the following:

- Penalty for Kindergarten is $323,448.00
- Penalty for 1st - 3rd grade is $1,372,281.00
- Penalty for 4th - 8th grade is $2,088,566.00

Revenues for the 2011-12 Second Interim Report were based on the following assumptions:

Governor's tax initiative proposal for the November election is not successful and midyear reductions in 2012-2013 of $371 per ADA, $1,700,000, are included.

No Cost of Living Adjustment is included in the 2012-13 proposed budget, resulting in an additional loss of revenues of approximately $700,000.

Midyear cuts for the 2011-12 year are included resulting in a reduction of revenues for the current year of approximately $244,000.

The 2011-12 Second Interim Report was certified Qualified with the District projecting it may not be able to maintain a reserve for economic uncertainties of 3% or greater for the current and two subsequent years.

The Little Lake Educators Association's collective bargaining agreement does place restrictions on class size and loading and the District is in current negotiations with the LLEA to increase class sizes to the size listed on the waiver. We are currently negotiating class size with our bargaining unit and will abide by the contract agreement that is reached. Our intent is not to have to increase classes to the limit stated. However, in these fiscally unstable times we want our District to be protected by this waiver for the two years that it covers.

Declining Enrollment and Average Daily Attendance

The District's enrollment and average daily attendance (ADA) has been declining steadily for many years. The district has experienced a decline in enrollment equal to 1.5% over the last 10 years. This means that the District's revenues decline in each year of ADA decline, which places continuous pressure on the District to reduce expenditures. And, even though the District has implemented a Fiscal Stabilization Plan, huge reductions have been made to the State Budget for education and the District has had to absorb the loss of revenue beginning in the 2008-09 school year. Even if the Governor's proposed tax initiative passed in November 2012 resulting in flat funding for the 2012-13 school year, this level of funding would not come close to what the District has lost since 2008-09. Coupled with declining enrollment, the State Budget cuts to education, which bring the deficit factor to 21.66% in 2012-13—meaning schools get less than 80 cents for every dollar of funding owed—render a district unable to operate without significant reductions to staffing and program each year.

Overall Impact

The District has continued to maintain its commitment to program and to District staff during this fiscal emergency, however, without the waiver of class-size penalties, the District will either be required to hire back additional staff or pay a heavy penalty for exceeding the class size maximums. This would result in the need for further reductions to be levied in the 2012-13 school year and would prevent the District from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specific classes. The District's ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties that the District would incur without the requested waiver.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: _X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	7	3	6	4	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
TUSTIN UNIFIED SCHOOL DISTRICT	**Anthony Soria**	**asoria@tustin.k12.ca.us**

Address: (ZIP)	(City)	(State)		Phone (and extension, if necessary):
300 South C Street	**Tustin**	**CA**	**92780**	**(714) 730-7301, ext. 302** Fax number: **(714) 505-8397**

Period of request: (month/day/year)	Local board approval date: (Required)
2 years less one day From: **July 1, 2012** To: **June 29, 2014**	**April 30, 2012**

LEGAL CRITERIA

10. Authority for the waiver: **EC** Specific code section: **41382**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

See Attachment #1

11. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) **41376(a), (c), and (d)** Circle One: (*EC*) or *CCR*

Brief Description of the topic of the waiver: **Waive Class Size Penalty for exceeding the statewide district average of 30 pupils per teacher in grades 1-3**

12. If this is a renewal of a previously approved waiver**,** please list Waiver No: **69-2-2010-WC-5**
and date of SBE approval: **May 6, 2010.**
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

13. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **California State Employees Association (CSEA) – March 28, 2012**
Tustin Educators' Association (TEA) – March 27, 2012 _ _____

Name of bargaining unit and representative(s) consulted: **CSEA – Irma Dicochea**
TEA – Thomas J Prendergast

The position of **CSEA** bargaining unit: __ Neutral _**X**_ Support __ Oppose (*Please specify why*)
The position of **TEA** bargaining unit: __ Neutral __ Support _**X**_Oppose (*Please specify why*)

Comments (if appropriate): **See Attachment #2**

14. Advisory committee or school site council that reviewed the waiver. Name: **Coordinating Council**

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: **April 24, 2012**

_**X**_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes _**X**_ No (If there were objections please specify) **See Attachment #3**

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

15. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

See Attachment #4

16. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

See Attachment #5

17. Demographic Information:
District has a student population of **23,505** and is located in a **small** city in **Orange** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _**X**_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 30, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

#1 Attachment – Application Section 1 – Authority for the waiver

EC 41382. The principal of any elementary school maintaining Kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

#2 Attachment – Application Section 4 – Collective Bargaining Unit Comments

California State Employees Association (CSEA) has taken the position to support the class size waiver request with the State.

While the **Tustin Educators' Association (TEA)** understands the District's desire to have the latitude to increase class size, TEA does not believe that this would be in the best interest of the students.

#3 Attachment – Application Section 5 – Advisory Committee Comments

After an extensive discussion, overall the Coordinating Council is supportive of providing maximum financial flexibility to the Tustin Unified School District during the current fiscal crisis. The following are some of the comments from parents at the meeting:

- The community is concerned about increasing class size and the effect it will have on student learning. Student /teacher ratios for each grade level were discussed.

- While the Coordinating Council understood the reasons for the waiver, they have concerns of what role the class size waiver plays in the District's finances.

#4 Attachment – Application Section 6 - Education Code to be waived – Class Size Penalty (Grades 1-3)

EC 41376 (a), (c), and (d).

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.~~

~~For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

#5 Attachment – Application Section 7 - Desired Outcome/Rational

Tustin Unified School District is seeking to renew the waiver to temporarily increase the average class size in grades 1-3 in order to reduce expenditures. The District believes that this waiver request is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state. Over the past two fiscal years, Tustin Unified has had to address revenue cuts in excess of $31 million. Based on current projections, including future cuts in the Governor's proposed budget for 2012-13 and his tax proposal failing, our District is facing an additional estimated annual revenue cut of $10.4 million.

The cumulative impact to these revenue cuts has resulted in the District's projected reserves for economic uncertainties to fall in excess of $18.7 million below the State standard 3% level through fiscal year 2013-14. Increasing the average class size to 33 would save approximately $1 to 2 million in each of the next two fiscal years. If the class size waiver is not accepted, Tustin Unified School District will potentially face $2.5 million in penalties.

To achieve such a savings and avoid being penalized for exceeding the requirements, Tustin Unified School District would require a waiver of Education Code Section 41376 (a),(c) and (d) regarding district average class size not larger than 33 to one and no class is larger than 35 to one in grades 1-3. This waiver would allow Tustin Unified flexibility and the time over the next two fiscal years during which the District would be able to reassess its fiscal position to lower class sizes.

Tustin Unified School District remains determined to provide essential core academic programs to our students by using all available resources to maintain as many teacher jobs and student programs as possible. With staffing reductions made due to the current fiscal crisis, the imposition of financial penalties for exceeding class-size requirements would have a detrimental effect on our ability to continue to provide quality instruction in all core subjects, including reading and mathematics.

The Tustin Unified School District has a long history of academic excellence. Over the past six years, Tustin Unified has been honored with three National Blue Ribbon School awards, 15 California Distinguished School awards and three Title I Academic Achievement School awards. Denial of this waiver renewal would compromise the District's ability to continue effective educational programs fully serving the needs of our students. Our District API is 857, with nine schools over 900, and 70 percent of our schools exceeding 800 API. This waiver is essential to our efforts of continued improvement of core instructional programs and services for all Tustin Unified School District students, particularly those who are most at risk. Increased class size will be a challenge that we believe we can meet through effective differentiation in the classroom and timely intervention for students at risk at each school site.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-27

ITEM #W-27

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **Specific Waiver**

SUBJECT

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

Waiver Numbers:

- Bear Valley Unified School District 30-4-2012
- Capistrano Unified School District 15-3-2012
- Cloverdale Unified School District 37-4-2012
- Hollister School District 5-3-2012
- Jamul Dulzura Union Elementary School District 33-3-2012
- Lowell Joint School District 5-4-2012
- Murrieta Valley Unified School District 44-4-2012
- Oceanside Unified School District 55-3-2012
- Paso Robles Joint Unified Elementary School District 53-3-2012
- Santa Rita Union Elementary School District 35-4-2012

☒ **Action**

☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waivers do not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by each district in its waiver application, the State Board of Education (SBE) finds that the districts' continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the districts would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of

Education Code (EC) sections 41376 and/or 41378 will, if not waived, prevent the districts from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the districts' applications.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

Education Code Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, these districts are requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and/or subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The districts listed on Attachment 1 request flexibility to temporarily increase class sizes in kindergarten through grade three or grades one through three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008–09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

Each district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

The California Department of Education recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should any district exceed this new limit, the class size penalty would be applied per statute.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (3 pages)

Attachment 2: Bear Valley Unified School District Specific Waiver Request 30-4-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Capistrano Unified School District Specific Waiver Request 15-3-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Cloverdale Unified School District Specific Waiver Request 37-4-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Hollister School District Specific Waiver Request 5-3-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Jamul Dulzura Union Elementary School District Specific Waiver Request 33-3-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Lowell Joint School District Specific Waiver Request 5-4-2012 (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 8: Murrieta Valley Unified School District Specific Waiver Request 44-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Oceanside Unified School District Specific Waiver Request 55-3-2012 53-3-2012 (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 10: Paso Robles Joint Unified Elementary School District Specific Waiver Request 53-3-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 11: Santa Rita Union Elementary School District Specific Waiver Request 35-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Education Code sections 41376 and 41378: For Kindergarten:
Overall average 31; No class larger than 33. For Grades 1-3:
Overall average 30; no class larger than 32.

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
30-4-2012	Bear Valley Unified School District	**Requested**: July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K-3: Overall average 33; no class size larger than 36	For K-3: Overall average 33; no class size larger than 36	Bear Valley Education Association, Scott Hird, President and Debi Burton, Vice President, 4/11/12 **Neutral**	April 18, 2012	District Budget Advisory Committee 4/12/12 **Objections**	$461,700 each year	Qualified	Yes 7/1/10 to 6/29/12
15-3-2012	Capistrano Unified School District	**Requested**: July 1, 2012 to June 30, 2013 **Recommended**: July 1, 2012 to June 29, 2013	For K-3: Overall average 33; no class size larger than 35	For K-3: Overall average 33; no class size larger than 35	Capistrano Unified Education Association, Vicki Soderberg, President, 2/13/12 **Neutral**	May 14, 2012	Achievement For All Advisory Committee 2/14/12 **No Objections**	$1,531,731 FY 2012-13	Qualified	No
37-4-2012	Cloverdale Unified School District	**Requested:** July 1, 2011 to June 29, 2013 **Recommended**: July 1, 2011 to June 29, 2013	For 2011-12: K-3: Overall average 32, no class size larger than 33. For 2012-13: K-3: Overall average 32, and no class size larger than 34	For 2011-12: K-3: Overall average 32, no class size larger than 33. For 2012-13: K-3: Overall average 32, and no class size larger than 34	Teachers Association of Cloverdale, Suzanne Gunnick, President, 4/26/12; California School Employees Association, Cindy Ostermann, President, 4/24/12 **Support**	April 23, 2012	Jefferson Elementary School Site Council, 4/26/12 **No Objections**	2011-12: $91,967 2012-13: $118,244	Positive	No
5-3-2012	Hollister School District	**Requested:** July 1, 2012 to June 15, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K-3: Overall average 33; no class size larger than 37	For K-3: Overall average 33; no class size larger than 37	Hollister Elementary School Teachers Association, Joe Rivas, President; California School Employees Association, Cecilia Rodriquez, President; Various Dates **Neutral**	February 28, 2012	School Site Councils, Various Dates **No Objections**	$884,000 each year	Qualified	Yes 7/1/10 to 6/29/12

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Education Code sections 41376 and 41378: For Kindergarten:
Overall average 31; No class larger than 33. For Grades 1-3:
Overall average 30; no class larger than 32.

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
33-3-2012	Jamul Dulzura Union Elementary School District	**Requested:** July 1, 2012 to June 30, 2013 **Recommended**: July 1, 2012 to June 29, 2013	For K-3: Overall average 33; no class size larger than 35	For K-3: Overall average 33; no class size larger than 35	Jamul Dulzura Union Teachers Association, Barbara Smithson, President, 2/24/12; California School Employees Association, Sandra Hitt, President, 2/15/12 **Support**	March 14, 2012	School Site Councils, 1/25/12 and 2/7/12 **No Objections**	$35,524 FY 2012-13	Positive	No
5-4-2012	Lowell Joint School District	**Requested:** August 15, 2012 to June 30, 2014 **Recommended**: July 2, 2012 to June 29, 2014	For 1-3: Overall average 33; no class size larger than 34	For 1-3: Overall average 33; no class size larger than 34	Lowell Joint Education Association, Allison Fonti and Teresa Herman, Co-President; 2/22/12 **Neutral** California School Employees Association, Darleene Pullen, President, 2/22/12 **Support**	April 2, 2012	Lowell Joint PTA Presidents Council, 3/7/12 **Objections**	$115,539 each year	Positive	Yes 7/1/10 to 6/30/12
44-4-2012	Murrieta Valley Unified School District	**Requested:** July 1, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K: Overall and no class size larger than 33; For 1-3: Overall and no class larger than 32	For K: Overall and no class size larger than 33; For 1-3: Overall and no class larger than 32	Murrieta Teachers Association, Kathy Ericson, President, 3/7/12; Classified School Employees Association, Susan Butler, President, 3/22/12 **Neutral**	April 26, 2012	School Site Councils **Objections**	$2,400,000 each year	Positive	No
55-3-2012	Oceanside Unified School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K: Overall average 33; no class size larger than 34. For 1-3: Overall average 33 and no class size larger than 33	For K: Overall average 33; no class size larger than 34. For 1-3: Overall average 33 and no class size larger than 33	Oceanside Teachers Association, Terry Hart, President; 3/14/12 **Neutral**	March 27, 2012	District Advisory Council, 3/14/12 and 3/21/12 **Objections**	$1,500,000 each year	Positive	No

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Education Code sections 41376 and 41378: For Kindergarten:
Overall average 31; No class larger than 33. For Grades 1-3:
Overall average 30; no class larger than 32.

Waiver Number	District	Period of Request	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
53-3-2012	Paso Robles Joint Unified Elementary School District	**Requested:** July 1 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	For K-3: Overall average 33 and no class size larger than 35	For K-3: Overall average 33 and no class size larger than 35	Paso Robles Public Educators, Jim Lynett, President, 3/12/12 **Neutral**	March 27, 2012	District Language Advisory Committee, 3/15/12 **No Objections**	$1,731,766 each year	Negative	Yes 7/1/10 to 6/29/12
35-4-2012	Santa Rita Union Elementary School District	**Requested:** July 1, 2011 to June 30, 2013 **Recommended**: July 1, 2011 to June 29, 2013	For K-3: Overall average 33 and no class size larger than 36	For K-3: Overall average 33 and no class size larger than 36	Santa Rita Teachers Association, Heather Howell, President, **Neutral** California School Employees Association, Priscilla Luna, President; 3/13/12 **Support**	April 17, 2012	Santa Rita School District Leadership, 3/21/12 **No Objections**	$215,000 each year	Positive	No

Created by California Department of Education
May 15, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

First Time Waiver: ___

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	6	7	6	3	7

Local educational agency: **Bear Valley Unified School District**	Contact name and Title: **Tim Larson** Director of Personnel/Educational Services	Contact person's e-mail address: **tim_larson@bearvalleyusd.org**
Address: (City) (State) (ZIP) **42271 Moonridge Road** **Big Bear Lake** **CA** **92315** P.O. Box 1529		Phone (and extension, if necessary): **(909) 866-4631** Fax number: (909) 866-2040
Period of request: (month/day/year) From: **7/1/2012** To: **6/30/2014**	Local board approval date: (Required) **April 18, 2012**	

LEGAL CRITERIA

1. Authority for the waiver: **_EC 41382__** Specific code section: **__EC 41376 (a) (c) and (d); EC 41378 (a) (b) (c) (d) (e)_**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
Ed. Code 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: **EC 41376 (a) (c) and (d)**; **EC 41378 (a) (b) (c) (d) (e)** Circle One: (*EC*) or *CCR*

Brief Description of the topic of the waiver: **To waive class size penalty for Kindergarten, EC 41378**
To waive the class size penalty for grades 1-3, EC 41376 **K-3 CSR**

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: **22-6-2011** and date of SBE approval **September 2011**. Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)
Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **April 11, 2012**

Name of bargaining units and representative(s) consulted: **Bear Valley Education Association - President Scott Hird, Vice President – Debi Burton**
The position(s) of the bargaining unit(s): **_XX_** Neutral __ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): **Although it is understood this is a necessary fiscal decision, it increases the struggles for teachers and students alike. BVEA is hopeful the issues causing class sizes to increase so dramatically will be resolved soon. There is language in the contract that provides for teacher support when contractual class size limits are exceeded. This request will likely enact that language. No additional negotiations are required for this waiver.**

5. Advisory committee or school site council that reviewed the waiver. Name: **District Budget Advisory Committee**
Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: **April 12, 2012**

___ Approve _**XX**_ Neutral ___ Oppose

Were there any objections? Yes _**XX**_ No ___ (If there were objections please specify)

Though they approved of the waiver for its necessity, the Budget Advisory Committee issued the following statement: "We regret having to request such drastic measures to preserve our district's financial solvency. We believe these steps are necessary due to the ongoing budget crisis and political turmoil at the state level."

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41376 (a) (c) and (d); The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

EC 41378 (a) (b) (c) (d) (e): The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver.

The district believes this waiver is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state. Without the waiver, Bear Valley Unified School District would be subject to penalties. The possible loss of additional revenue would further reduce funding and would cause additional financial burden. The Bear Valley Unified School District has faced enormous fiscal challenges since 2007. BVUSD has made approximately $3,500,00.00 in expenditure and program reductions during the last three years. For 2011-12, the district cut $447,221.00 in programs, class size, and employee compensation. Our board has approved additional cuts in the amount of $320,000.00 for the 2012-13 school year. In addition the district has experienced a decline in enrollment of 497 students from 2007 to 2012. The district projects that enrollment will continue to decline and contribute to an unfavorable budget outlook over the next several years.

Bear Valley Unified is requesting an increase in the average class size to 33 with no class exceeding 36 in grades K-3 for the 2012/13 and 2013/14 school years. This action would have a positive financial impact to our weakening budget and allow us to avoid being penalized for exceeding state requirements. To accomplish this, Bear Valley Unified School District is requesting a waiver of EC 41378 subdivisions (a) through (e), which limits the average class size on a district wide level for Kindergarten to 31 students and individual class size to 33 students. In addition, Bear Valley Unified School District is requesting a waiver of EC 41376 subdivisions (a), (c), and (d), which limits the average class size for grades one through three to 30 students district wide, with an individual class size not to exceed 32 students. This waiver would allow Bear Valley Unified important flexibility, and the time, to reassess its financial position to lower class sizes.

Bear Valley Unified School District has a long history of strong academic achievement. Though small, the district has 4 California Distinguished Schools. Our four elementary schools and middle school have an API in excess of 800, while our high school achieved an API of 784 on the most recent CST. The district is committed to continue to work on being a high performing district and expects to have improved student performance in spite of budget difficulties and increased class sizes. Increased class sizes will present a unique set of challenges, but we believe these challenges will be met through continued dedication and hard work focused on providing the best that we are able for our students

Union contract language does not need to be renegotiated; current contract language allows our district to go up to and beyond the class sizes being requested. The language does provide for accommodations to teachers who are in classrooms that exceed the contractually agreed upon class size.

8. Demographic Information:
(District/school/program) ***Bear Valley Unified School District***_ has a student population of **2,662**_ and is located in **rural** (*urban, rural, or small city etc.)*_***Big Bear Lake in San Bernardino***_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _**X**_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title **Superintendent**	Date

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Bear Valley Unified School District

Statement explaining the impact if the waiver is not approved :

If this waiver is successful, we will continue to use targeted remediation and enrichment with our core instructional program to meet student's academic needs in Reading and Math, as well as other academic areas. To provide this targeted remediation and enrichment we need adequate resources to keep teachers and aides employed. If this waiver is unsuccessful we will need to restructure how services are delivered and release additional staff to adjust for the financial penalties we will receive and students will suffer from less support. These class sizes are not ideal, but we have been able to build supports around them to mitigate the negative effects of larger class sizes as best we can under our current financial conditions.

For 1-3 the potential penalty if the waiver is not approved:

Using the online estimator we would anticipate a penalty of $379,000.00 for grades 1 – 3, and a penalty of $82,000.00 for Kindergarten. This would be a total penalty of $461,700.00 for grades K – 3.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_

Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	6	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Capistrano Unified School District	Julie Hatchel, Asst. Supt., Education	jhatchel@capousd.org

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
33122 Valle Road, San Juan Capistrano, CA 92675	(949) 234-9229 Fax number: (949) 489-0467

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/1/12 To: 6/30/13	May 14, 2012

LEGAL CRITERIA

9. Authority for the waiver: EC 41382 Specific code section:
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions.

10. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) 41376(a) (c) (d) and 41378 Circle One: (*EC*) or *CCR*

Brief Description of the topic of the waiver: Waive the Class Size Penalty – Kindergarten
Waive the Class Size Penalty – Grades 1-3

11. If this is a renewal of a previously approved waiver**,** please list Waiver No: N/A and date of SBE approval N/A
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

12. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): February 13, 2012, April 5, 2012

Name of bargaining units and representative(s) consulted: Capistrano Unified Education Association, Vicki Soderberg, President

The position(s) of the bargaining unit(s): _X__ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): The District would need to negotiate an increase in the staffing ratio in order to increase class size district wide in grades K-3. Article 8 in the CUEA contract addresses the staffing ratios (Article 8.3) and individual class size maximums (Article 8.5). The staffing ratio is 30.5:1 in Kindergarten and 31.5:1 in grades 1-3. Should an individual class in Kindergarten exceed 32:1 and 33:1 in grades 1-3, Article 8.5.1 provides one full-day release per month by a substitute. Class sizes are monitored closely and the classes that fall into Article 8.5 are kept to a minimum.

13. Advisory committee or school site council that reviewed the waiver. Name: Achievement For All Advisory Committee

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: February 14, 2012; April 5, 2012

_X__ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _X__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST
SW-1 (Rev. 10-2-09)

14. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

15. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The District is requesting the class size limit be waived and allow the overall class size average in kindergarten to increase from 31 to 33 and in grades 1-3 from 30 to 33. The District is also requesting that individual class size maximums be increased from 33 in kindergarten to 35 and from 32 in grades 1-3 to 35.

With the current class size limits, it is anticipated that the District will need a waiver to eliminate potential penalties in 2012-2013. The District is expecting a budget shortfall of 30-50 million dollars due to the elimination of federal stimulus funding and declining enrollment. To address the shortfall, the District has responded with certificated and classified reductions, and in negotiations for potential increased class sizes, additional furlough days, and possible salary rollbacks. Additional financial reductions due to class size penalties will create a further decline to classroom programs resulting in reductions that reach core academic programs such as reading, math, and science. This will negatively affect the District's ability to serve students as we're transitioning to Common Core standards and closing the achievement gap.

If this waiver is approved, a projected penalty of up to $1,531,731 could be eliminated. This calculation was projected based on 2010-2011 data. If one class had been over the maximum, the penalty computation would have included a total of 235 classes and based on the revenue limit, the total would have been $1,531,731. Note: with a reduction in revenue limit, the penalty would be lower.

16. Demographic Information:
Capistrano Unified School District has a student population of 50,488 and is located in the suburban city of San Juan Capistrano in Orange County. Demographic information regarding tested subgroups is attached.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _X_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Joseph M. Farley	Superintendent	
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: _ _

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	9	7	0	6	5	6

Local educational agency: Cloverdale Unified	Contact name and Title: Lois Standring, Chief Business Official	Contact person's e-mail address: standringl@cusd.org
Address: (City) (State) (ZIP) 95 School Street Cloverdale CA 95425		Phone (and extension, if necessary): (707) 894-1920 x14 Fax number: (707) 894-1922
Period of request: (month/day/year) From: 7-1-2011 To: 6-29-2013	Local board approval date: (Required) April 23, 2012	

LEGAL CRITERIA

17. Authority for the waiver: _X__ Specific code section: _EC 41382__
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
EC 41382 Exemption from penalty provisions: application to State Board Education

18. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) EC 41376 (a), (c) and (d) and 41378 (a) through (e) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Waiver of class size penalties for grades K-3. Under provisions of Ed. Code Sections EC 41376 (a), (c) and (d) and 41378 (a) through (e) to avoid class size penalties in grades K through 3.

19. If this is a renewal of a previously approved waiver**,** please list Waiver No: and date of SBE approval
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

20. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): TAC- 4/26/12 CSEA 4/24/12
Name of bargaining units and representative(s) consulted: CSEA-Cindy Ostermann, Pres, TAC-Suzanne Gunnick, Pres
The position(s) of the bargaining unit(s): ____ Neutral _X_ Support ___ Oppose (*Please specify why*)
Comments (if appropriate): Both units support the filing of the waiver but they stated that they want to have smaller classes as soon as it is financially possible.

21. Advisory committee or school site council that reviewed the waiver. Name: Jefferson Elementary School Site Council

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: April 26, 2012

X Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No X (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

22. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

    SEE ATTACHED

23. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

    SEE ATTACHED

24. Demographic Information:
    Cloverdale Unified is a small district in the small city of Cloverdale at the most northern end of Sonoma County. The enrollment is 1370 and there is one elementary school, one middle school and one high school.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? **X** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: Claudia Frandsen	Title: Superintendent, Cloverdale Unified	Date: 4/26/12
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waive the Class Size Penalty for Kindergarten

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Waiver the Class Size Penalty for Grades 1-3. Statutory "authority" for the request is EC 41382

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained,~~

~~during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

#7 Desired outcome/rationale:

The current state fiscal crisis has led to significant reduction in revenues to our District. In response to these reductions there have been extensive budget cuts implemented in Cloverdale. In order to meet current budget challenges and remain fiscally solvent, the District is pursuing every opportunity to reduce costs to the unrestricted general fund. Current bargaining agreements with certificated staff allow for class sizes up to 30 in grades K through 6. Since salaries and benefits are the largest expense item in the budget, we have had to increase class sizes to the contract maximum and beyond in order to meet our budget reduction goals. The 2011-2012 school year was staffed knowing that the overages we would be paying teachers would still be more economical than hiring additional teachers. During 2011-2012 we were able to stay at 33 or under in our K-3 classrooms. For 2012-2013 we project that we may have classes go up to 34 in some cases. The situation is further complicated because we have only one elementary school and have little flexibility to rearrange classes when new students arrive. Funding reductions imposed due to class-size penalties are calculated to be $91,967 for the 2011-12 fiscal year and for 2012-2013 it is projected 2 $118,244. Any loss of revenue will severely impact our educational programs through reductions that reach the core academic programs such as reading, mathematics, and science. The District has had to make so many cuts that only the core program remains. The waiver is needed to mitigate the impact of ADA loss from the penalty. The purpose of the two year waivers are not to permanently increase class size, but to allow some flexibility as the District struggles to balance its budget in these difficult times. This waiver will help the District protect its fragile fiscal condition and allow the maximum efficiency in staffing.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:
Renewal Waiver: XX

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	5	6	7	4	7	0

Local educational agency: Hollister School District	Contact name and Title: Dr. Gary L. McIntire - Superintendent	Contact person's e-mail address: gmcintire@hesd.org
Address: (City) (State) (ZIP) 2690 Cienega Rd., Hollister, CA 95023		Phone (and extension, if necessary): 831-630-6307 Fax number: 831-634-2080
Period of request: (month/day/year) From: 7/01/2012 To: 6/15/2014	Local board approval date: (Required) February 28, 2012	

LEGAL CRITERIA

25. Authority for the waiver: EC Specific code section: 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

26. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: 41388 and 41376(a)(c) and (d) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Class sizes in Kindergarten and in 1st through 3rd

27. If this is a renewal of a previously approved waiver**,** please list Waiver No: 175-12-2010-W-2 and date of SBE approval: 05-12-2011.
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

28. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **XXX** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Hollister Elementary School Teachers Association (HESTA) (CTA) consulted on November 28, 2011, February 7, 2012 and February 14,2012; CSEA Chapter #625 consulted on November 28, 2011 and February 28, 2012.

Name of bargaining units and representative(s) consulted: HESTA – Joe Rivas, President; CSEA – Cecilia Rodriguez, President

The position(s) of the bargaining unit(s): **_XXX__** Neutral ___ Support ____ Oppose - HESTA discussed this at an Executive Board meeting, on February 15,2012, and voted to take a NEUTRAL stance on the waiver. Though the unit understands the fiscal realities, they are nevertheless opposed to large class sizes. (*Please specify why*)

The position(s) of the bargaining unit(s): **XXX** Neutral ___ Support ___ Oppose CSEA has reviewed this waiver request and sees no impacts, either positive or negative, on its members.

Comments (if appropriate):

29. Advisory committee or school site council that reviewed the waiver. Name:
School Site Councils at the following schools reviewed the waivers on the dates noted:
Marguerite Maze Middle School (01-30-12); Gabilan Hills School (01-19-12); R. O. Hardin School (01-25-12); Rancho San Justo Middle School (01-19-12); Accelerated Achievement Academy (01-30-12); Calaveras School (01-30-12); Ladd Lane School (01-19-12); Hollister Dual Language Academy (12-09-10)

English Language Advisory Committees at the following schools reviewed the waivers on the dates noted:
District English Language Advisory Committee -01-18-12

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request:

___ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No **XXX** (If there were objections please specify)
There were no objections. All groups understood the importance of this waiver request, though none of them liked the necessity of submitting it.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

30. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

31. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The Hollister School District is seeking to temporarily increase class size in Kindergarten and in grades 1-3 in order to reduce expenditures. The budget crisis and resulting revenue reductions has caused the District's 2012-13 through 2013-14 anticipated expenditures to exceed revenues by approximately $4.4 million (2011-12 1st Interim Report – MYP). With this waiver, the District would save (i.e. not be assessed penalties of) approximately $1.8 million in 2012/13 through 2013/14 by increasing the average class size. The District requests a waiver to increase the district-wide average number of pupils in each Kindergarten and 1st-3rd grade classroom to 33 students. In 2009/10, prior to the initial waiver, these classes averaged 21.5 students in Kindergarten, and 23 students in the 1st-3rd grades. The District also seeks to increase the maximum size of classes to 37 students in Kindergarten, and in grades 1-3. The current (2011/12) average class size in the Hollister School District is 32.2 in Kindergarten, and 31.2 in grades 1-3.

In light of the current statewide budget crisis and the reduced revenue to our school district, the potential to increase class size allows us to lower expenditures by reducing staff or not replacing staff lost to natural attrition. By allowing the District to increase average class size to 33 in grades K-3, we anticipate a potential expenditure reduction which would directly influence District's operations and ability to provide necessary services for our students in a positive way. We feel that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver.

32. Demographic Information:
Hollister School District (K-8) has a student population of 5600 and is located in a small town in San Benito County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? X No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: Gary L. McIntire, Ed. D.	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	1	5	5

Local educational agency: **Jamul Dulzura Union Elementary School District**	Contact name and Title: **Lisa Davis, Business Manager**	Contact person's e-mail address: **ldavis@jdusd.net**
Address: (City) (State) (ZIP) **14581 Lyons Valley Road Jamul California 91935**		Phone (and extension, if necessary): **(619) 669-7703** Fax number: **(619) 669-0254**
Period of request: (month/day/year) From: **07/01/2012** To: **06/30/2013**	Local board approval date: (Required) **March 14, 2012**	

LEGAL CRITERIA

33. Authority for the waiver: **EC** Specific code section: **41382**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it **finds** that the specified provision of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

At the August 2010, State Board of Education meeting the Members made the following "finding":

Given the extremely challenging fiscal environment presently facing all California schools and the specific financial circumstances described by the district in its waiver application, the Board finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of Education Code section 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

34. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) **41378, 41376** Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: Waiver of the class size penalty for exceeding the following parameters:
Kindergarten: Average class size not to exceed 31 students; no class larger than 33 students
Grades 1-3: Average class size not to exceed 30, no class larger than 32 students
Request to temporarily increase Kindergarten average class size not to exceed 33; no class larger than 35.
Request to temporarily increase Grades 1-3 average class size not to exceed 33; no class larger than 35.

35. If this is a renewal of a previously approved waiver**,** please list Waiver No: _N/A_ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

36. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): California School Employees Association, Chapter #664 met February 15, 2012 and Jamul Dulzura Union Teachers Association met February 24, 2012

Name of bargaining units and representative(s) consulted:

California School Employees Association, Chapter #664: Sandra Hitt, President
Jamul Dulzura Union Teachers Association: Barbara Smithson, President

The position(s) of the bargaining unit(s): ___ Neutral _X__ Support ___ Oppose (*Please specify why*)

37. Advisory committee or school site council that reviewed the waiver. Name:

Jamul Primary/Intermediate School Site Council
Oak Grove Middle School Site Council

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request:

Jamul Primary/Intermediate School Site Council met January 25, 2012
Oak Grove Middle School Site Council met February 7, 2012

_X__ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _X__ (If there were objections please specify)

38. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

For Kindergarten:
EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. ~~(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

For Grades 1-3:

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district. ~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more that 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above, ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

39. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The District requests a waiver to temporarily increase class sizes in grades K-3 in order to reduce expenditures and to meet is required State Reserve level. This District has been experiencing on going declining enrollment for many years now and has been proactive in keeping staffing/enrollment ratios at acceptable levels. However, due to the State's continued funding reductions to school district's revenues and school district's uncertainty of State funding levels from year to year, this District will now be forced to increase class sizes to above the levels currently required. The staffing to enrollment cost savings from a temporary increase in class sizes will be crucial for this district to remain solvent.

40. Demographic Information:
(District/school/program) Jamul Dulzura Union Elementary School District has a student population of *677* and is located in *rural* (*urban, rural, or small city etc.) Jamul* in *San Diego* County.

1 School Site: Jamul Primary School

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? X No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: **Superintendent**	Date:
Signature of SELPA Director (only if a Special Education Waiver) **N/A**		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

BUSINESS OFFICE
JAMUL-DULZURA
14581 LYONS VALLEY ROAD
UNION SCHOOL
JAMUL, CA 91935
DISTRICT
(619) 669-7703 FAX

Attachment "A"

To: Waiver Office, California Department of Education

From: Jamu Dulzura Union Elementary School District

Date: March 29, 2012

Re: Class Size Penalty Waiver Request for 2012-2013 Fiscal Year

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The Jamul Dulzura Union Elementary District is concerned that without the approval of the Class Size Penalty Waiver Requests for the 2012-2013 Fiscal Year, the district's continued ability to maintain the quality delivery of instruction and required program offerings in all core subjects, including reading and mathematics could be seriously compromised by the financial penalties the district may otherwise incur without the requested waivers.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	6	6

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lowell Joint School District	**Dr. Patricia Howell, Superintendent**	**phowell@ljsd.org**

Address: (ZIP)	(City)	(State)		Phone (and extension, if necessary):
				(562) 902-4200
11019 Valley Home Avenue	**Whittier**	**CA**	**90603**	Fax number: **(562) 947-7874**

Period of request: (month/day/year)	Local board approval date: (Required)
From: **August 15, 2012** To: **June 30, 2014**	**April 2, 2012**

LEGAL CRITERIA

41. Authority for the waiver: **EC 41382**___ Specific code section: **EC 41376 (a)(c) and (d)**__
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

SEE ATTACHED

42. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: **EC 41376 (a)(c) and (d)** Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: Waiving class size ratios for Kindergarten and grades one through three.

43. If this is a renewal of a previously approved waiver**,** please list Waiver No: **33-4-2010-W-10**___ and date of SBE approval __**August 2, 2010**_____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

44. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **February 22, 2012**

Name of bargaining units and representative(s) consulted**:** **Lowell Joint Education Association**
Allison Fonti and Teresa Herman, Co-Presidents

The position(s) of the bargaining unit(s): **_X__ Neutral** ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

Bargaining unit(s) consulted on date(s): **February 22, 2012**

Name of bargaining units and representative(s) consulted: **California School Employees Association**
Darleene Pullen, President

The position(s) of the bargaining unit(s): ___ Neutral **_X__ Support** ___ Oppose (*Please specify why*)

45. Advisory committee or school site council that reviewed the waiver. Name: **Lowell Joint PTA Presidents Council**

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: **March 7, 2012**

___ Approve ___ Neutral __X_ Oppose

Were there any objection? Yes _X__ No ___ (If there were objections please specify) **Please see attached**

46. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

SEE ATTACHED

47. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The Lowell Joint School District is a high-performing elementary school district with a district Academic Performance Index (API) of 864. Each of the elementary schools received the 2010 California Distinguished School Award. In examining the anticipated enrollment in grades Kindergarten and one through three for the 2012/13 and 2013/14 school years, it would be a financial hardship for the District to open even one new class to meet the needs of one or two students who have moved into the District. The cost of opening just one new class could range from $72,000 to $92,000 for the year.

In an effort to resolve a budget deficit, the Lowell Joint School District is attempting to create as many viable options as possible to resolve the fiscal crisis. The Lowell Joint School District is requesting to renew the waiver to increase class size up to 34 students per class, with the overall average no larger than 33 students in grades 1 through 3.

Given the extremely challenging fiscal environment presently facing all California schools and the specific financial circumstances described above, the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver. Specifically, the class size penalty provisions of Education Code Section 41376 will, if not waived, prevent the District from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the application.

48. Demographic Information:
*(District/school/program)*_Lowell Joint School District_ has a student population of _3,174 students___ and is located in an urban (*urban, rural, or small city etc.)* in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _**X**_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _ **X** _ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: **Superintendent of Schools**	Date: April 3, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Lowell Joint School District
Specific Waiver Request (Grades 1 – 3)
Attachment – Page 1

Question #1

Ed Code 41382 – Exemption from penalty provisions; application to State Board of Education. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Sections 41376, 41378, or 41379[1] with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Sections 41376, 41378, or 41379[1] prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

Question #5

Per *EC* 33051(a) if the waiver affects a program that requires a School Site Council that Council must approve the request. This Specific Waiver Request does not require a School Site Council approval. However, the waiver was discussed with the District's PTA Presidents and an opportunity was given for their input. Approximately 60% of the PTA Presidents opposed the waiver as they feel the transition from second grade to third grade is a difficult transition for many students due to the increased rigor in the third grade curriculum. They stated that if a class had 32 students enrolled and a new student moved into the school's attendance area, they would prefer that one of the 32 students who are currently enrolled be asked to leave or go to another school in the district so that the new student could enroll. The remaining approximately 40% of the PTA Presidents disagreed and stated that current students should not be asked to leave or go to another school as those students had been in the class and it did not seem reasonable to disrupt those students' education if one or two students could be added to the class.

Question #6

***EC* 41376 (a)(c) and (d)**. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full0-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964, or March 30, 1964, as selected by the governing board.

Lowell Joint School District
Specific Waiver Request (Grades 1 – 3)
Attachment – Page 2

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 40601 by the resulting product.

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivisions (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a “full-time equivalent classroom teacher” means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular school day. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular school day.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15 of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filled under the provisions of this section, and the Superintendent of Public

Lowell Joint School District
Specific Waiver Request (Grades 1 – 3)
Attachment – Page 3

Instruction shall notify each school district the mount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 40601 shall be made for a school district on account of large classes due to instructional televisions or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	5	2	0	0

Local educational agency: Murrieta Valley Unified School District	Contact name and Title: Stacy Matusek, Director, Fiscal Services	Contact person's e-mail address: smatusek@murrieta.k12.ca.us
Address: (City) (State) (ZIP) 41870 McAlby Court, Murrieta, CA 92562		Phone (and extension, if necessary): 951-696-1600 x1083 Fax number: 951-304-1533
Period of request: (month/day/year) From: 7/1/12 To: 6/29/14	Local board approval date: (Required) April 26, 2012	

LEGAL CRITERIA

49. Authority for the waiver: Education Code Specific code section: _41382__
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of **Education** on behalf of the school for an exemption for such classes from the specified provisions. The State Board of **Education** shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

50. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (41376 and 41378) Circle One: [*EC*] or *CCR*

Brief Description of the topic of the waiver: Class Size Penalty Waiver for Kindergarten and Grades 1st through 3rd

51. If this is a renewal of a previously approved waiver**,** please list Waiver No: __N/A___ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

52. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? No [Yes] If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Murrieta Teachers Association – March 7, 2012
Classified School Employees Association – March 22, 2012

Name of bargaining units and representative(s) consulted: Murrieta Teachers Association – Kathy Ericson-President
Classified School Employees Association – Susan Butler-President

The position(s) of the bargaining unit(s): ___ [Neutral ***] ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): *** Murrieta Teachers Association – No teacher/teacher association would support larger class sizes. It is unfortunate that our State has forced districts into a budget crisis requiring such drastic steps as huge class sizes.

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST
SW-1 (Rev. 10-2-09)

53. Advisory committee or school site council that reviewed the waiver. Name: Please see attached.

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: Please see attached.

___ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No ___ (If there were objections please specify) Please see attached.

54. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

41376. (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.

~~(a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.~~

~~(b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33).~~

~~(c) The total number of pupils by which the average class size in the district exceeds 31.~~

~~(d) The greater number of pupils as determined in (b) or (c)above.~~

~~(e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

55. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Over the last four fiscal years, Murrieta Valley Unified School District has lost approximately <$95.5M> in eligible revenue limit funding. In addition, the Governor's January Budget Proposal for 2012-2013 includes the potential for another round of midyear trigger cuts including $4.8B in education reductions if a November 2012 ballot tax measure fails. This could result in an additional ongoing $8M loss to MVUSD beginning in 2012-2013.

In light of the of continuing statewide budget crisis, reduced revenue and uncertainty Murrieta Valley Unified School District requests a waiver to increase the district-wide average number of pupils per full-time equivalent teacher in kindergarten from 31 per FTE (EC41378) to 33 per FTE with no class larger than 33 and in grades 1st through 3rd from the current 30 per FTE (EC41376) to 32 per FTE with no class larger than 32.

Class size flexibility, salary reductions with all bargaining units, and non-replacement of retirees will allow MVUSD to continue effective instruction and intervention programs while addressing budget shortfalls. Without approval of this waiver, the financial penalties imposed on the district would have a detrimental effect on the district's operations and ability to maintain and improve instruction in all core subjects.

56. Demographic Information:
Murrieta Valley Unified School District has a student population of 22,757 and is located in a small city of 100,000+ in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) __ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? __ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	7	3	5	6	9

Local educational agency: Oceanside Unified School District	Contact name and Title: Luis Ibarra, Ed.D., Associate Superintendent, Business Services	Contact person's e-mail address: libarra@oside.us
Address: (City) (State) (ZIP) 2111 Mission Avenue, Oceanside, CA 92058		Phone (and extension, if necessary): 760/966-4016 Fax Number: 760/433-3191
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2014	Local board approval date: (Required) March 27, 2012	

LEGAL CRITERIA

57. Authority for the waiver: EC 41382 Specific code section: 41378(a)-(d) and 41376 (a), (c) and (d)
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

See Attachment A

58. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: 41378(a)-(e) and 41376 (a), (c) and (d) Circle one: *EC* or *CCR*

Brief Description of the topic of the waiver: The district is requesting EC 41378(a)-(e) and associated penalties be waived to have flexibility to increase class sizes for Kindergarten from the maximum individual class size from 33 to 34 and the district average from 31 to 33. Also, the district is requesting EC 41376(a), (c) and (d) and associated penalties be waived to have flexibility to increase class sizes for 1-3 from the maximum individual class size from 32 to 33 and the district average from 30 to 33.

59. If this is a renewal of a previously approved waiver**,** please list Waiver No: N/A and date of SBE approval N/A
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

60. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 14, 2012

Name of bargaining units and representative(s) consulted: Oceanside Teachers' Association – Terry Hart, President

The position(s) of the bargaining unit(s): **X** Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

61. Advisory committee or school site council that reviewed the waiver. Name: DAC and DLAC

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: March 14, 2012 (DAC) and March 21, 2012 (DLAC) See Attachment B

X Approve ___ Neutral ___ Oppose
Were there any objection? Yes **X** No ___ (If there were objections please specify) A parent expressed frustration regarding the lack of funding from the state, but ultimately a majority of the parents understood the district's rationale for the waiver request.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

62. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

See Attachment C

63. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The Oceanside Unified School District is seeking to temporarily increase class size in grades K-3 in order to provide flexibility in staffing and reduce expenditures during this period of severely reduced revenue. The District faces an $8 million budget shortfall for 2012-13 and 2013-14 due to the ongoing State budget crisis and sharp revenue reductions. The District would save approximately $1.8 million by increasing the average class sizes in grades Kindergarten to third grade. The District is requesting that Education Code section 41378(a)-(e) and the associated penalty be waived in order to have the flexibility to increase class sizes for Kindergarten from the maximum allowable individual class size from 33 to 34 and the District kindergarten average from 31 to 33. Additionally, the District is requesting that Education Code section 41376 (a), (c), and (d) and the associated penalty be waived in order to increase class sizes for grades 1-3 from the maximum allowable individual class size from 32 to 33 and the District average from 30 to 33 students. If the penalties are not approved, it would prevent the District from developing more effective educational programs to improve instruction in reading and mathematics in grades K-3. This waiver will end on June 30, 2014 at which time it is anticipated that the District will be in a better position to reinstate lower class sizes.

64. Demographic Information:
Oceanside Unified School District has a student enrollment of 19,751 and is located in the city of Oceanside and portions of Camp Pendleton in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 27, 2012
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A, Item 1 – Authority for Waiver, Specific Code Section

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it **finds** that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

Attachment B, Item 5 – Advisory committee or school site council that reviewed the waiver

Oceanside Unified School District
"Guiding Our Students to Bright Futures"

Board of Education
Lillian V. Adams, President
Janet Bledsoe Lacy, Vice President
Adrianne Hakes, Ed.D., Clerk
Roy Youngblood, Member
Emily Ortiz Wichmann, Member

Glenda Cuevas,
Coordinator

DISTRICT ADVISORY COUNCIL (DAC) MEETING
Wednesday, March 14, 2012
6:30 PM

Meeting Notes

Site Representatives: * indicates representatives present at this meeting

Chavez:	*Jenae Torgersen*	**Nichols:**	*Katherine Blume**
Del Rio:	*Tammy Redka*		*Randal Kaufman**
El Camino:		**North Terrace:**	*Kristin Harris**
Foussat:	*Cyntrea Peters*	**Ocean Shores:**	*Zoila Hazel*
Garrison:	*Julie Bates **	**Oceanside High:**	*Diana Paopao*
Ivey Ranch:	*Easter Christopher*	**Palmquist:**	*Oran Bloodsworth **
Jefferson:	*Maribel Philips*	**Reynolds:**	*Angie Cruz*
King:	*Easter Christopher*	**San Luis Rey:**	*Sam McClintock*
Laurel:	*Aide Canseco*	**Santa Margarita:**	*Paul McQuigg **
	Maria Cerda	**South Oceanside:**	*Angela Vorderbruggen*
Libby:	*Jenny Sepulveda*	**Stuart Mesa:**	*MaryAnn Babas **
Lincoln:	*Marisa Stapleton*	**District Staff:**	*Glenda Cuevas **
McAuliffe:	*Kim Hall**	**Guest:**	*Dr. Luis Ibarra*, Dan Daris**
Mission:	*Amy Garrison*		

Welcome/Introductions: Glenda Cuevas welcomed DAC representatives and guests presenters Dr. Luis Ibarra and Dan Daris. Site representatives introduced themselves.

Approval of Minutes from January 11, 2012 Meeting: The minutes from the November 2, 2011 meeting were reviewed and approved.

Extension of Waiver to Increase of Class Sizes (Grades K-8): Dr. Ibarra presented background information regarding the need to extend the waiver we had for the past two years for grades 4-8, maintaining individual class size average at 32. The district is also asking for new flexibility in grades K-3, for increase of individual class size average from 33-34. This flexibility helps to prevent a large number of combination classes across the district. It is probable that the State will grant this waiver because of the continued budget problems. If the district has the waiver flexibility, they will use it judiciously in order to maintain optimal learning environment for our students. Parents had the opportunity to ask questions, provide suggestions and voice their concerns. They voted 7 to 1 in favor of extending the waiver for grades 4-8 and asking for additional class size flexibility for grades K-3.

Bullying - District Policies and Ways Parents Can Help: Dan Daris shared information on the definition and components of bullying; statistics, its impact, what our schools are doing to address bullying, and what parents can do to prevent and address this problem. The PowerPoint presentation will be e-mailed parents.

OUSD College Going Culture: Moved to next meeting.

Ways to Contact Elected Officials: Ways to contact our elected officials:

- United States House of Representatives Finder: https://writerep.house.gov/
- Senators:
  Boxer, Barbara
  112 HART SENATE OFFICE BUILDING WASHINGTON DC 20510
  Phone: (202) 224-3553
  Web Form: www.boxer.senate.gov/en/contact/
  Feinstein, Dianne
  331 HART SENATE OFFICE BUILDING WASHINGTON DC 20510
  Phone: (202) 224-3841
  Web Form: www.feinstein.senate.gov/public/index.cfm/e-mail-me

Other:

- District calendars for 2012-13 and 2013-14 have been approved by the Board and are posted www.oside.us. The 2013-14 calendar includes an earlier start date – August 20, 2013, a shorter Thanksgiving Week holiday, and end to the first semester at the winter break – December 20, 2013. The last day of school will be Wednesday, June 4, 2014
- OUSD will offer full-day kindergarten at the following elementary schools: Del Rio, Garrison, Laurel, Libby, Mission, Nichols, North Terrace, Reynolds, San Luis Ray, South Oceanside and Stuart Mesa. Informational flyers are available at all schools.
- Transitional kinder is the first of a two-year kinder program available for children turning 5 years old between November 2 and December 2. Participating schools are: Laurel, McAuliffe, Nichols, Reynolds and Stuart Mesa. . Informational flyers are available at all schools.
- School Schedules: Next year early start schools and late start schools will flip-flop schedules. The starting times for Mission and Palmquist may be adjusted because they will be at a different location due to remodeling.

Next Meeting: Suggested agenda items for May 23, 2012. Agenda items include:

- OUSD College Going Culture
- Organization of school volunteers
- Determine best night of the week to hold DAC meetings next year

Call or e-mail Mrs. Cuevas if you have agenda items to include in the agenda.

Attachment C, Item 6 – Education Code Being Waived:

To Waive the Class Size Penalty (Grade Kindergarten)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

To Waive the Class Size Penalty (Grades 1-3)

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	0	7	5	4	5	7

Local educational agency: Paso Robles Joint Unified School District	Contact name and Title: Kathleen McNamara, Ed.D., Superintendent	Contact person's e-mail address:kmcnamara@paroschools.org
Address: (City) (State) (ZIP) 800 Niblick Road, P.O. Box 7010, Paso Robles, CA 93447		Phone (and extension, if necessary): (805) 769-1000 ext. 30101 Fax number: (805)237-3333
Period of request: (month/day/year) From: 7/1/12 To: 6/29/14	Local board approval date: (Required) March 27, 2012	

LEGAL CRITERIA

65. Authority for the waiver: ___ Specific code section: _X_
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41378 and EC 41382

66. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) 41376 and 41378 Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: Class Size Penalty

67. If this is a renewal of a previously approved waiver**,** please list Waiver No: 26-7-2010-w-3 and date of SBE approval November, 2010.
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

68. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 12 2012

Name of bargaining units and representative(s) consulted: Paso Robles Public Educators (PRPE), Jim Lynett (Pres.)

The position(s) of the bargaining unit(s): _X__ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

69. Advisory committee or school site council that reviewed the waiver. Name: District Language Advisory Committee- DLAC

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: March 15, 2012

___ Approve _X__ Neutral ___ Oppose

Were there any objection? Yes ___ No _X__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

70. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

Paso Robles JUSD requests a waiver of E.C. 41376 (a)(c) and (d) for grades K-3. The current bargaining unit class size is 30 to 1. Our waiver request for K through 3 is to increase class is to an average of 33 to 1 and an individual class size of 35 to 1.

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

71. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Paso Robles JUSD is seeking to increase class size in grades K -3 in 2012-13 and 2013-14 in order to reduce expenditures. According to the district, with the current state and federal budgetary challenges and the district's $5.6 million deficit, the district has no choice but to reduce personnel costs to remain solvent. Without the waiver, the district will remain in negative certification and be in danger of state receivership.

72. Demographic Information:
(District/school/program) PRJUSD has a student population of 6, 750and is located in a _rural_(*urban, rural, or small city etc.)* in San Luis Obispo County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X__ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 3/16/12
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

PRJUSD Statement for Waiver:

The Paso Robles Joint Unified Schools District would like to request a waiver for grades K-3. In Kindergarten we request a waiver for an average of 32, and for grades 1-3, we request a waiver for an average of 35.

Currently, our District has had to reduce it's budget by $5.6 million dollars and has a Negative Certification. The result is that we are unable to continue to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics with smaller class sizes, thus the reason for the waiver. In order to continue to offer the best possible educational program we must increase our class sizes. If do not receive this waiver, our program could become seriously compromised by the financial penalties the District would otherwise incur without the requested waiver.

According to the District's contract with the teachers' bargaining unit, a financial penalty of $100 per student over the class size limit is awarded to the teacher.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_

Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	6	6	1	9	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:mbrusa@santaritaschools.org
Santa Rita Union School District	Mike Brusa, Superintendent	

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
57 Russell Road, Salinas, CA 93906	831-443-7200 ext. 203 Fax number: 831-442-1729

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/1/2011 To: 06/30/2013	April 17, 2012

LEGAL CRITERIA

1. Authority for the waiver: **EC 41376 and EC-41382** Specific code section:
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
EC-41378 (a) (b) (c)- Kindergarten

EC 41376(a) (c) and (d) -Grades 1st through 3rd

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) Circle One: (*EC*) or *CCR*

Brief Description of the topic of the waiver:

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _N/A__ and date of SBE approval __N/A__
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No __(Yes) If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 13, 2012**

Name of bargaining units and representative(s) consulted:

Santa Rita Teachers Association	**Heather Howell**	**Neutral**
California School Employees Association	**Priscilla Luna**	**Support**

The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: **Santa Rita School District Leadership**

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: **March 21, 2012**

_X__ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _X__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST
SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The District, as may other district in the State of California has been experiencing an exorbitant los in revenue of over 20%. This loss in revenue is forcing Districts to maximize class sizes and reduce certificated positions as these positions constitute the majority of the District's budget.
The District wishes to increase class sizes as follows:

1. Kindergarten—average class size from 31 students to 33 students
2. Grades 1-3—average class size from 30 students to 33 students

8. Demographic Information:
The Santa Rita Union School District has a student population of 3106 and is located in the outskirts of Salinas, in the Monterey County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) __ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? __ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: **Mike Brusa**	Title: **Superintendent**	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-28

ITEM #W-28

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by four districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average. Waiver Numbers: Brea-Olinda Unified School District; 21-4-2012 Helendale Elementary School District; 28-3-2012 Little Lake City Elementary School District; 42-4-2012 Tustin Unified School District; 2-5-2012	☒ Action ☐ Consent

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9. The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis

and reductions in revenue limit funding. Since fiscal year 2008–09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude a district from increasing class sizes above certain maximums. By denying the waiver, the SBE does not ensure that the districts will not raise class size averages and lose funding.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Brea Olinda Unified Elementary School District General Waiver Request 21-4-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Helendale Elementary School District General Waiver Request 28-3-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Little Lake City Elementary School District General Waiver Request 42-4-2012 (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Tustin Unified School District General Waiver Request 2-5-2012 (5 pages) (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
21-4-2012	Brea-Olinda Unified School District	**Requested**: August 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	30.8	33	33	Brea-Olinda Teachers Association, Joe Bartell, President; 4/3/12 **Oppose**	April 16, 2012	Parent Teachers Association, Parent Leaders from Nine School Sites; 4/2-6/12 **Objections**	$366,872 each year	Positive	Yes 7/1/10 to 6/29/12
28-3-2012	Helendale Elementary School District	**Requested:** July 1, 2012 to June 30, 2013 **Recommended**: July 1, 2012 to June 29, 2013	29.9	35	35	Helendale Professional Teachers Association, Virginia Price, President; 3/8/12 **Oppose**	April 11, 2012	Helendale Secondary School and Helendale Elementary School, 3/8/12 **Objections**	$187,852 FY 2012-13	Positive	No
42-4-2012	Little Lake City Elementary School District	**Requested:** July 11, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	35	35	Little Lake Educators Association, Terry Tanori, President, 3/9/12 **Oppose**	April 17, 2012	District Advisory Committee and District English Learner Advisory Committee, 3/8/12 **No Objections**	$1,695,729 each year	Qualified	No
2-5-2012	Tustin Unified School District	**Requested:** July 1, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	33	33	California State Employees Association, Irma Dicochea, President, 3/28/12 **Support** Tustin Educators Association, Thomas Prendergast, President, 3/27/12 **Oppose**	April 30, 2012	Coordinating Council, 4/24/12 **Objections**	$2,500,000 each year	Positive	Yes 7/1/10 to 6/29/12

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	4	9

Local educational agency: Brea Olinda Unified School District	Contact name and Title: Anne Flesher, Assistant Superintendent Personnel & Educational Services	Contact person's e-mail address: aflesher@bousd.us
Address: (City) (State) (ZIP) I Civic Center Circle, Level II Brea CA 92821		Phone (and extension, if necessary): 714.990.7818 Fax Number: 714.990.7826
Period of request: (month/day/year) From: 08.01.12 To: 06.30.14	Local board approval date: (Required) 04.16.12	Date of public hearing: (Required) 04.16.12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 Circle One: (*EC*) or *CCR*
Topic of the waiver: Class Size Standards, Grades 4 – 8.

2. If this is a renewal of a previously approved waiver list Waiver Number #67-2-2010-WC-6 & date of SBE Approval 05/06/2010
Renewals of waivers must be submitted two months before the active waiver expires. N/A

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 04.03.12

Name of bargaining unit and representative(s) consulted: Brea Olinda Teacher Association President

The position(s) of the bargaining unit(s): __ Neutral __ Support _X_ Oppose (*Please specify why*)
Comments: On behalf of the Brea Olinda Teachers Association, we take opposition to the waiver to increase class sizes for grades 4-8. We understand that this waiver may be necessary to facilitate class sizes at the high school from soaring even higher. However, we simply cannot support a policy that raises class sizes at any level in our district due to the implications this will have on student learning.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X_ Notice posted at each school X Other: *(Please specify)*
BOUSD District Office, Brea City Hall & Brea Community Center

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
PTA (Parent Teacher Association) / PTA (Parent Teacher Organization) / Parent Leaders from the 9 BOUSD school sites.
Date(s) the committee/council(s) reviewed the waiver request. April 2-6, 2012

Were there any objection(s)? No ___ Yes _X_ (*If there were objections please specify)*
Obviously, no one from any site is in favor of more students in each class at any level. Those at the high school level are reluctantly supportive of the request and see the logic to spreading class size increases over as many grade levels as possible. Brea Junior High expressed concern for safety for students and staff due to the number of students requiring more desks, backpack storage, and limited space for movement around classrooms. The junior high school and all 6 elementary schools expressed concerns arising from more students in each classroom. Some feel class sizes are already large and that increases would impact student learning, with less individual and small group instruction. Many at all levels expressed regret that there were increases at any levels, including the high school. In summary, though the reason for the waiver request is understood, all are sensitive to the fact that class size increases at any level create additional challenges to student learning and success.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

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6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Ed Code 41376 (b): For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:
(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, ~~for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~
~~**(2)** Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~
~~**(3)** Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~
Ed Code 41376 (e): Waive in entirety

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Education Code states that class size averages in grades 4-8 cannot exceed either 29.9 or the class size average of the district in 1964. In the Brea Olinda Unified School District, this limit is 30.8. With current state and federal budgetary challenges, we are facing huge deficits. As a district with one comprehensive high school and Education Code restrictions on class size in grades K-8, our only option is to raise class size averages to an estimated 42-43:1 at our high school. We are requesting a renewal waiver of Education Code 41376(b) penalties to allow for an average class size in grades 4-8 to 33:1, as the current waiver expires June 29, 2012, and the number will revert to 30.8:1 This waiver will allow us to continue to distribute necessary staffing reductions over a greater number of grade levels, thus alleviating the impact on our single comprehensive high school. Absent this waiver, class size at the high school may reach the Education Code maximum of 48 students. We feel it in the best interest of all district students to have greater flexibility in grades 4-8 as we work to remain fiscally solvent while providing a quality educational program for our students.

8. Demographic Information:

Brea Olinda Unified School District has a student population of 5926 and is located in Brea (small city) in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent Personnel & Educational Services	Date: April 16, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x__
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE					
	6	7	7	3	6

Local educational agency: Helendale School District	Contact name and Title: Dr. Phillip R. Tenpenny	Contact person's e-mail address: phillip_tenpenny @helendale.k12.ca.us
Address: (City) (State) (ZIP) P.O. Box 249, Helendale, CA 92342		Phone (and extension, if necessary): (760) 952-1180 Fax Number: (760) 952-1178
Period of request: (month/day/year) From: 07/01/2012 To: 06/30/2013	Local board approval date: (Required) March 14, 2012	Date of public hearing: (Required) March 14, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: *EC* or *CCR*

   Topic of the waiver: Class Size Penalties Grades 4-8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 8, 2012

   Name of bargaining unit and representative(s) consulted: Helendale Professional Teachers' Association (HPTA), Mrs. Virginia Price (President)

   The position(s) of the bargaining unit(s): __ Neutral __ Support _x_ Oppose (*Please specify why*)

   Comments (if appropriate): HPTA believes class sizes of 35 will weaken the instructional program.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _x__ Notice posted at each school __x_ Other: *(Please specify)* Public notice posted at the School District Office, Silver Lakes Market, and Helendale Community Services District

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Helendale Secondary School **Helendale Elementary School**

   Date the committee/council reviewed the waiver request: March 8, 2012

   Were there any objection(s)? No ___ Yes _X_ (*If there were objections please specify)* Council members are concerned that students will not be able to receive the same level of attention and instruction that currently exists.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

    See attached "Item #6: To Waive the Class Size Penalty (Grade 4-8) Prospectively EC §41376(b) and (e)*".*

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

    The district requests a waiver to increase the district wide average number of pupils per each full-time equivalent (FTE) teacher for grades 4-8 from the current 29.9 per FTE (which existed in 1964 per EC §41376) to 35 per FTE.

    The Helendale Professional Teachers' Association Collective Bargaining Agreement (CBA) does not include language regarding a cap on class size averages.

    To meet the requirements of EC §41376, the district would need to continue staffing at current levels. The statewide budget crisis has affected the financial health of the district, putting district operations at risk. The district believes it necessary to reduce staffing levels in an effort to preserve student programs and district operations to remain solvent.

12. Demographic Information:
    Helendale School District has a student population of 559 and is located in a rural community in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 14, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item #6: To Waive the Class Size Penalty (Grades 4-8) Prospectively
EC §41376(b) and (e)

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the

State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular school day. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular school day.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied. The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	1	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Little Lake City School District	Maria A. Soto, Assistant Superintendent of Educational Services	maria_soto@ littlelake.k12.ca.us

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
10515 S. Pioneer Blvd. Santa Fe Springs CA 90670	(562) 868-8241 ext. 2240 Fax Number: (562) 484-0841

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 07/11/2012 To: 6/29/2014	April 17, 2012	April 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: *EC* or *CCR*

Topic of the waiver: Waiver of Class Size Penalty for exceeding the 1964 district average (29.5) and/or statewide average (29.9) number of pupils per teacher in Grades 4-8. The District requests to increase the average to 35:1.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval _N/A_
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _✓_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 9, 2012

Name of bargaining unit and representative(s) consulted: Little Lake Educators Association - Terry Tanori

The position(s) of the bargaining unit(s): ___ Neutral ___ Support _✓_ Oppose (*Please specify why*)

Comments (if appropriate): Please see attachment.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Whittier Daily News, April 6, 2012

_✓_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: District Advisory Committee and District English Learner Advisory Committee

Date the committee/council reviewed the waiver request: March 8, 2012

Were there any objection(s)? No _✓_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. Education Code or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Please see attachment.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please see attachment.

8. Demographic Information:
Little Lake City School District has a student population of 4,750 students in grades K-8 and is located in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No __✓__ Yes ____
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No __✓__ Yes ____
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Maria A. Soto	Assistant Superintendent of Educational Services	April 17, 2012

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 6 – Education Code to be Waived

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. ~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Item 3 – Comments from Bargaining Unit

"The teacher's association, Little Lake Educators Association, believes that any further increase to class size is detrimental to our students and their academic progress and success."

Item 7 – Desired outcome/rationale

Fiscal Distress

Little Lake City School District (District) has been managing a precarious budget situation for the last few years. Since the 2006-07 school year, District revenues have been reduced by approximately $6,362,000 for a 15.8% reduction. Since the 2008-09 school year the District has:

- Reduced the school year by five days
- Reduced all employees' salaries proportionately
- Increased K-3 class size from 20:1 to 30:1 currently
- Reduced Home to School Transportation
- Hard cap on benefits exercised
- Eliminated step movement for certificated staff for 2012-2013
- Offered an Early Retirement Incentive

Additionally, large numbers of both certificated, classified and management personnel have been laid off through this period of time in all areas of the District. In spite of all of these reductions, the District has had a structural deficit problem, which simply put means that the District's expenditures exceed its revenues. The District has certified as Qualified during the 2011-12 Second Interim reporting period in spite of placing further assumptions in the area of reductions such as:

- Further increasing class sizes
- School closure
- Eliminating Home to School Transportation completely
- Negotiating additional furlough days

If the District is not successful in obtaining the waiver to increase class sizes in grades K-8, the District will be forced to maintain additional teachers for the 2012-13 school year, thereby increasing the expenditures of the District without a change to revenues causing the District to deficit spend even further and possibly resulting in a Negative certification in 2012-13 or 2013-14. The District has developed staffing plans based on the higher number of students enrolled, at the levels requested in the waiver requests. The penalty that our District would incur would be a total of $3,784,295.00 if the waiver is not granted. This figure includes the following:

- Penalty for Kindergarten is $323,448.00
- Penalty for 1st - 3rd grade is $1,372,281.00
- Penalty for 4th - 8th grade is $2,088,566.00
-

Revenues for the 2011-12 Second Interim Report were based on the following assumptions:

Governor's tax initiative proposal for the November election is not successful and midyear reductions in 2012-2013 of $371 per ADA, $1,700,000, are included.

No Cost of Living Adjustment is included in the 2012-13 proposed budget, resulting in an additional loss of revenues of approximately $700,000.

Midyear cuts for the 2011-12 year are included resulting in a reduction of revenues for the current year of approximately $244,000.

The 2011-12 Second Interim Report was certified Qualified with the District projecting it may not be able to maintain a reserve for economic uncertainties of 3% or greater for the current and two subsequent years.

The Little Lake Educators Association's collective bargaining agreement does place restrictions on class size and loading and the District is in current negotiations with LLEA to increase class sizes to the size listed on the waiver. We are currently negotiating class size with our bargaining unit and will abide by the contract agreement that is reached. Our intent is not to have to increase classes to the limit stated. However, in these fiscally unstable times we want our District to be protected by this waiver for the two years that it covers.

Declining Enrollment and Average Daily Attendance

The District's enrollment and average daily attendance (ADA) has been declining steadily for many years. The district has experienced a decline in enrollment equal to 1.5% over the last 10 years. This means that the District's revenues decline in each year of ADA decline, which places continuous pressure on the District to reduce expenditures. And, even though the District has implemented a Fiscal Stabilization Plan, huge reductions have been made to the State Budget for education and the District has had to absorb the loss of revenue beginning in the 2008-09 school year. Even if the Governor's proposed tax initiative passed in November 2012 resulting in flat funding for the 2012-13 school year, this level of funding would not come close to what the District has lost since 2008-09. Coupled with declining enrollment, the State Budget cuts to education, which bring the deficit factor to 21.66% in 2012-13—meaning schools get less than 80 cents for every dollar of funding owed—render a district unable to operate without significant reductions to staffing and program each year.

Overall Impact

The District has continued to maintain its commitment to program and to District staff during this fiscal emergency, however, without the waiver of class-size penalties, the District will either be required to hire back additional staff or pay a heavy penalty for exceeding the class size maximums. This would result in the need for further reductions to be levied in the 2012-13 school year and would prevent the District from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specific classes. The District's ability to maintain the delivery of instruction
and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties that the District would incur without the requested waiver.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: **X**

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	7	3	6	4	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Tustin Unified School District	**Anthony Soria–Chief Financial Officer**	**asoria@tustin.k12.ca.us**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
300 South C Street	**Tustin**	**CA**	**92780**	**(714) 730-7301, ext. 302** Fax number: **(714) 505-8397**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
2 years less one day From: **July 1, 2012** To: **June 29, 2014**	**April 30, 2012**	**April 30, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **41376 (b) and (e)** Circle One: *EC* or *CCR*

Topic of the waiver: **Waive Class Size Penalty for exceeding the 1964 district (30.5) and/or statewide average of 29.9 pupils per teacher in grade 4-8.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **68-2-2010-WC-11** and date of SBE Approval: **May 6, 2010**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **California State Employees Association (CSEA) – March 28, 2012**
Tustin Educators' Association (TEA) – March 27, 2012

Name of bargaining unit and representative(s) consulted: **CSEA – Irma Dicochea**
TEA – Thomas J Prendergast

The position of **CSEA** bargaining unit: __ Neutral _**X**_ Support __ Oppose (*Please specify why*)
The position of **TEA** bargaining unit: __ Neutral __ Support _**X**_Oppose (*Please specify why*)
Comments (if appropriate): **See Attachment #1**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_**X**_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Coordinating Council

Date the committee/council reviewed the waiver request: **April 24, 2012**

Were there any objection(s)? No Yes **X** (*If there were objections please specify*) **See Attachment #2**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. Education Code or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment #3

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See Attachment #4

8. Demographic Information:

District has a student population of **23,505** and is located in a **small** city in **Orange** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 30, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

#1 Attachment – Application Section 4 – Collective Bargaining Units Comments

California State Employees Association (CSEA) has taken the position to support the class size waiver request with the State.

While the **Tustin Educators' Association (TEA)** understands the District's desire to have the latitude to increase class size, TEA does not believe that this would be in the best interest of the students.

#2 Attachment – Application Section 5 – Advisory Committee Comments

After an extensive discussion, overall the Coordinating Council is supportive of providing maximum financial flexibility to the Tustin Unified School District during the current fiscal crisis. The following are some of the comments from parents at the meeting:

- The community is concerned about increasing class size and the effect it will have on student learning. Student /teacher ratios for each grade level were discussed.

- While the Coordinating Council understood the reasons for the waiver, they have concerns of what role the class size waiver plays in the District's finances.

#3 Attachment – Application Section 6 - Education Code to be waived –Class Size Penalty (Grades 4-8) EC 41376 (b) and (e)

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above~~.

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:~~

~~He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular school day. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular school day.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year. Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied. The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

#4 Attachment – Application Section 7 - Desired Outcome/Rational

The Tustin Unified School District is seeking to renew the waiver to temporarily increase the average class size in grades 4-8 in order to reduce expenditures. The District believes that this waiver request is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state. Over the past two fiscal years, Tustin Unified has had to address revenue cuts in excess of $31 million. Based on current projections, including future cuts in the Governor's proposed budget for 2012-13 and his tax proposal failing, our District is facing an additional estimated annual revenue cut of $10.4 million.

The cumulative impact to these revenue cuts has resulted in the District's projected reserves for economic uncertainties to fall in excess of $18.7 million below the State standard 3% level through fiscal year 2013-14. Increasing the average class size to 33 would save approximately $1 to 2 million in each of the next two fiscal years.

To achieve such a savings and avoid being penalized for exceeding the requirements, Tustin Unified School District would require a waiver of Education Code Section 41376 (b) and (e) regarding district average class size of 30.5 in grades 4-8. This waiver would allow Tustin Unified flexibility and the time over the next two fiscal years during which the District would be able to reassess its fiscal position to lower class sizes.

The Tustin Unified School District has a long history of academic excellence. Over the past six years Tustin Unified has been honored with three National Blue Ribbon awards, 15 California Distinguished School awards and three Title I Academic Achievement School awards. The academic program in place will assist the District in continued achievement and successes as evidenced in the District API score of 857. The District's API scores have shown a steady increase for the past nine years, as the District continually updates the curriculum, refines teaching strategies, provides professional development and strengthens intervention programs. Increased class size will be a challenge that we believe we can meet through effective differentiation in the classroom and timely intervention for students at risk at each school site.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-29

ITEM #W-29

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by 12 districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average. Waiver Numbers: Bear Valley Unified School District 31-4-2012 El Segundo Unified School District 6-5-2012 Hollister School District 4-3-2012 Huntington Beach City Elementary School District 17-4-2012 Jamul Dulzura Union Elementary School District 34-3-2012 Manteca Unified School District 9-4-2012 Murrieta Valley Unified School District 46-4-2012 Oceanside Unified School District 56-3-2012 Paso Robles Joint Unified School District 54-3-2012 Saddleback Valley Unified School District 3-4-2012 Salinas City Elementary School District 25-3-2012 Santa Rita Union Elementary School District 34-4-2012	☒ Action ☒ Consent

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight

that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9. The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since fiscal year 2008–09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude a district from increasing class sizes above certain maximums. By denying the waiver, the SBE does not ensure that the districts will not raise class size averages and lose funding.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (3 pages)

Attachment 2: Bear Valley Unified School District General Waiver Request 31-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: El Segundo Unified School District General Waiver Request 6-5-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 4: Hollister School District General Waiver Request 4-3-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Huntington Beach City Elementary School District General Waiver Request 17-4-2012 (4 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 6: Jamul Dulzura Union Elementary School District General Waiver Request 34-3-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Manteca Unified School District General Waiver Request 9-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 8: Murrieta Valley Unified School District General Waiver Request 46-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Oceanside Unified School District General Waiver Request 56-3-2012 (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 10: Paso Robles Joint Unified School District General Waiver Request 54-3-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

FISCAL ANALYSIS (AS APPROPRIATE)

Attachment 11: Saddleback Valley Unified School District General Waiver Request 3-4-2012 (6 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 12: Salinas City Elementary School District General Waiver Request 25-3-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 13: Santa Rita Union Elementary School District General Waiver Request 34-4-2012 (3 pages) (Original waiver request is signed and on file in the Waiver Office.)

Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
31-4-2012	Bear Valley Unified School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	34.4	38	38	Bear Valley Educators Association, Scott Hird, President and Debi Burton, Vice President, 4/11/12 **Neutral**	April 18, 2012	Budget Advisory Committee 4/12/12 **Objections**	$197,310 each year	Qualified	Yes 7/1/10 to 6/30/12
6-5-2012	El Segundo Unified School District	**Requested:** August 2012 to June 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	36	36	El Segundo Teachers Association, Daphne Moote, President, 4/10/12 **Neutral**	April 24, 2012	El Segundo School District's School Site PTA, 4/19/12 **No Objections**	$1,208,056 each year	Positive	Yes 7/1/10 to 6/29/12
4-3-2012	Hollister School District	**Requested:** July 1, 2012 to June 15, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	33	33	Hollister Elementary School Teachers Association, Joe Rivas, President; California School Employees Association, Cecilia Rodriguez, President; Various Dates **Neutral**	February 28, 2012	School Site Councils and District English Language Advisory Committee varies dates **No Objections**	$1,638,247 each year	Qualified	Yes 7/1/10 to 6/29/12
17-4-2012	Huntington Beach City Elementary School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	32	32	Huntington Beach Elementary Teachers Association, Trinon Carter, President; 4/5/12 **Neutral**	April 17, 2012	School Site Councils various dates **No Objections**	$1,336,414 each year	Positive	Yes 7/4/10 to 6/29/12
34-3-2012	Jamul Dulzura Union Elementary School District	**Requested:** July 1, 2012 to June 30, 2013 **Recommended**: July 1, 2012 to June 29, 2013	29.9	35	35	Jamul Dulzura Union Elementary Teachers Association, Barbara Smithson, President; 2/24/12; California School Employees Association, Sandra Hitt, President, 2/15/12 **Support**	March 14, 2012	School Site Councils, 2/25/12 and 2/7/12 **No Objections**	$437,745 FY 2012-13	Positive	No

Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
9-4-2012	Manteca Unified School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	34	34	Manteca Educators Association, Ken Johnson, President, 3/5/12 **Support**	April 10, 2012	Districts English Language Committee, 4/4/12 **No Objections**	$6,509,793 each year	Positive	Yes 7/1/10 to 6/29/12
46-4-2012	Murrieta Valley Unified School District	**Requested:** July 1, 2012 to June 29, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	35	35	Murrieta Teachers Association, Kathy Ericson, President, 3/7/12; Classified School Employees Association, Susan Butler, President, 3/22/12 **Neutral**	April 26, 2012	School Site Councils, various dates **Objections**	$7,574,286 each year	Positive	No
56-3-2012	Oceanside Unified School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	32	32	Oceanside Teachers' Association, Terry Hart, President, 3/14/12 **Neutral**	March 27, 2012	District Advisory Council, 3/14/12 and 3/21/12 **Objections**	$2,783,900 each year	Positive	Yes 7/1/10 to 6/29/12
54-3-2012	Paso Robles Joint Union Elementary School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	31.8	35	35	Paso Robles Public Educators, Jim Lynett, President, 3/12/12 **Neutral**	March 27, 2012	District Language Advisory Committee, 3/15/12	$1,342,563 each year	Negative	Yes 7/1/10 to 6/29/12
3-4-2012	Saddleback Valley Unified School District	**Requested:** September 5, 2012 to June 18, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	34.5	34.5	Saddleback Valley Educator's Association, Patty Stewart, Chief Negotiator, various dates **Neutral**	April 3, 2012	Class Size Review Committee, 3/30/12 **No Objections**	$5,355,315 each year	Positive	Yes 7/1/11 to 6/29/12

Districts Requesting Grades Four Through Eight Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Request	CDE Recommended (New Maximum)	Bargaining Unit, Representatives Consulted, Date, and Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted, Date/Position	Potential Annual Penalty Without Waiver	Fiscal Status	Previous Waivers
25-3-2012	Salinas City Elementary School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	33	33	Salinas City Elementary Teachers Association, Carole Rodrigues, President, various dates; California School Employees Association, Joe Sanchez, President; various dates **Support**	March 12, 2012	District English Learners Advisory Committee, 2/22/12 and Budget Advisory Committee, 2/23/12 **No Objections**	$1,694,431 each year	Positive	No
34-4-2012	Santa Rita Union Elementary School District	**Requested:** July 1, 2012 to June 30, 2014 **Recommended**: July 1, 2012 to June 29, 2014	29.9	33	33	California School Employees Association, Priscilla Luna, President, **Support** Santa Rita Teachers Association, Heather Howell, President, 3/13/12 **Neutral**	April 17, 2012	Santa Rita Union School District Leadership, 3/21/12 **No Objections**	$896,183 each year	Positive	Yes 7/1/10 to 6/29/12

Created by California Department of Education
May 15, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	6	7	6	3	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Bear Valley Unified School District	**Tim Larson, Director of Personnel/Educational Services**	**tim_larson@bearvalleyusd.org**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
42271 Moonridge Rd. P.O. Box 1529	**Big Bear Lake**	**CA**	**92315**	**(909) 866-4631** Fax Number: **(909) 866-2040**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2012** To: **June 30, 2014**	**April 18, 2012**	**April 18, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **41376(b)** Circle One: (*EC*) or *CCR*

Topic of the waiver: **Waive class size penalty for grades 4 - 8**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **3-4-2011** and date of SBE Approval **July 2011.** Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **XX** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **April 11, 2012**

Name of bargaining unit and representative(s) consulted: **Bear Valley Educator's Association** - Scott Hird & Debi Burton

The position(s) of the bargaining unit(s): **XX** Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate**): Although it is understood this is a necessary fiscal decision, it increases the struggles for teachers and students alike. BVEA anticipates that the district will use this on a limited basis and work with teachers to alleviate this burden when other options are available. There is language in the contract that provides for teacher support when contractual class size limits are exceeded. This request will likely enact that language. No additional negotiations are required for this waiver.**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper **XX** Notice posted at each school **XX** Other: *Posted in all local post offices (4)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: **Budget Advisory Committee** (District Committee)

Date the committee/council reviewed the waiver request: **April 12, 2012**

Were there any objection(s)? No __ Yes **XX** (*If there were objections please specify)*

Though they approved of the waiver for its necessity, the Budget Advisory Committee issued the following statement: "We regret having to request such drastic measures to preserve our district's financial solvency. We believe these steps are necessary due to the ongoing budget crisis and political turmoil at the state level."

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.**~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~** (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. **~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~**

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Bear Valley Unified School District (BVUSD) is seeking to temporarily increase the average class size in grades 4 – 8 in order to reduce expenditures. The district believes this waiver is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state. The Bear Valley Unified School District has faced enormous fiscal challenges since 2007. BVUSD has made approximately $3,500,00.00 in expenditure and program reductions during the last three years. For 2011-12, the district cut $447,221.00 in programs, class size, and employee compensation. Our board has approved additional cuts in the amount of $320,000.00 for 2012/13. In addition the district has experienced a decline in enrollment of 497 students from 2007 – 2012. The district projects that enrollment will continue to decline and contribute to an unfavorable budget outlook over the next several years.

Increasing the class size to 38 with no class exceeding 39 in grades 4 – 8 for the 2012/13 and 2013/14 school years would create a significant savings to the district. To achieve such a savings and avoid being penalized for exceeding state requirements, Bear Valley Unified School District would require a waiver of Education Code Section 41376 (b) and (e) regarding the State's average class size in 1964 of 34.4 (BVUSD Average) in grades 4 – 8. This waiver would allow Bear Valley Unified important flexibility, and the time to reassess its financial position to lower class sizes.

Bear Valley Unified School District has a long history of strong academic achievement. Though small, the district has 4 California Distinguished Schools. Our four elementary schools and middle school have an API in excess of 800, while our high school achieved an API score of 784 on the most recent CST.

Our continuing focus on using current curriculum, refining teaching strategies, providing professional development, and providing teacher collaboration time has helped prepare our teachers to face the challenges these budgetary constraints have presented. Increased class sizes will present a unique set of challenges, but we believe these challenges will be met through continued dedication and hard work focused on providing the best that we are able for our students.

Union contract language does not need to be renegotiated; current contract language allows our district to go up to and beyond the class sizes being requested. The language provides for accommodations for teachers of classes that exceed the agreed upon class size.

8. Demographic Information:

Bear Valley Unified School District has a student population of 2,662 and is located in rural Big Bear Lake in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **XX** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **XX** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	5	3	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
El Segundo Unified School District	Susan Aceves, Chief Business Official	saceves@esusd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
641 Sheldon Street	El Segundo,	CA	90245	(310) 615-2650, ext. 223 Fax Number: (310) 322-4334

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: August 2012 To: June 2014 (Two years)	April 24, 2012	April 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: (EC) or *CCR*

Topic of the waiver: Waiver of class size penalty for exceeding the 1964 district and/or statewide average (29.9) number of pupils per teacher in grades 4-8. The District's class size maximum in 1964 was 24.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 27-5-2010-WC-9 and date of SBE Approval July 15, 2010.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 10, 2012

Name of bargaining unit and representative(s) consulted: El Segundo Teachers Association (ESTA)

The position(s) of the bargaining unit(s): _X_ Neutral __ Support ___Oppose (*Please specify why*)

Comments (if appropriate): The District contacted Ms. Daphne Moote, El Segundo Teachers Association President, which stated that no comments are necessary.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* Posted in the public board documents website and public library.

9. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: El Segundo School District's school site PTA presidents.

Date the committee/council reviewed the waiver request: April 19, 2012

Were there any objection(s)? No **_X_** Yes ___ (*If there were objections please specify)*
The PTA Council understands the current fiscal crisis and that flexibility is needed.

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

10. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment 1

11. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District is seeking to temporarily increase class size in grades 4-8 in order to be able to balance the budget by reducing expenditures in preparation for the Governor's Proposed Budget if mid-year cuts are implemented. The potential revenue limit loss if mid-year cuts are triggered by the Governor will be approximately $1.2 million. The District's projected enrollment for grades 4-5 is 384 and grades 6-8 is 775. The District has had to make budget cuts/reductions by reducing the expenditures for the past eight (9) years. The District has lost over $5 million in revenue limit funding in the past years. The District has had to implement the flexibility transfers, SBX3 4 to balance the budget in addition to cuts/reductions and use one-time stimulus funding. The budget crisis has caused the District's 2012-13 and 2013-14 anticipated expenditures to exceed revenues by approximately $1.9 million in 2012/13. This would require a waiver of Ed. Code Section 41376(b), which states that a district will be penalized for exceeding its class size average in grades 4-8 from its 1964 average. In 1964 El Segundo Unified School District's class size average in grades 4-8 was 24 but the State average was 29.9 and can staff up to the State's average of 29.9. The District is asking that Ed Code Section 41376 (b), (e) and its associated penalty be waived in order to increase class sizes until additional revenues are available. This waiver would end on June 30, 2014 at which time it is anticipated that the District would be in a better position to afford the lower class sizes.

12. Demographic Information:
El Segundo Unified School District has a student population of 3,369 and is located in a city in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 6 EC Being Waived:

To Waive the Class Size Penalty (Grades 4-8) Prospectively or Retroactively
EC 41376 (b) and (e)

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:~~

~~He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the

Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction.

Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:
Renewal Waiver: XX

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency: Hollister School District	Contact name and Title: Dr. Gary L. McIntire - Superintendent	Contact person's e-mail address: gmcintire@hesd.org
Address: (City) (State) (ZIP) 2690 Cienega Rd., Hollister, CA 95023		Phone (and extension, if necessary): 831-630-6305 Fax Number: 831-634-2080
Period of request: (month/day/year) From: 7/01/2012 To: 6/15/2014	Local board approval date: (Required) February 28, 2012	Date of public hearing: (Required) February 28, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

EC 41376(b) and (e)

Topic of the waiver: Class Sizes in grades 4 through 8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 176-12-2010-W-1 and date of SBE Approval 05-12-2011

Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **XXX** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Hollister Elementary School Teachers Association (HESTA) (CTA) consulted on November 28, 2011, February 7, 2012 and February 14,2012; CSEA Chapter #625 consulted on November 28, 2011 and February 28, 2012.

Name of bargaining units and representative(s) consulted: HESTA – Joe Rivas, President; CSEA – Cecilia Rodriguez, President

The position(s) of the bargaining unit(s): **_XXX__** Neutral ___ Support ____ Oppose - HESTA discussed this at an Executive Board meeting, on February 15,2012, and voted to take a NEUTRAL stance on the waiver. Though the unit understands the fiscal realities, they are nevertheless opposed to large class sizes. (*Please specify why*)

The position(s) of the bargaining unit(s): **XXX** Neutral ___ Support ___ Oppose CSEA has reviewed this waiver request and sees no impacts, either positive or negative, on its members.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper **XXX** Notice posted at each school **XXX** Other: *(Please specify)* Posted at the San Benito Public Library, the San Benito County Office of Education, on the Hollister School District website (www.hesd.org).

5. Advisory committee or school site council that reviewed the waiver. Name:
School Site Councils at the following schools reviewed the waivers on the dates noted:
Marguerite Maze Middle School (01-30-12); Gabilan Hills School (01-19-12); R. O. Hardin School (01-25-12); Rancho San Justo Middle School (01-19-12); Accelerated Achievement Academy (01-30-12); Calaveras School (01-30-12); Ladd Lane School (01-19-12); Hollister Dual Language Academy (12-09-10)

English Language Advisory Committees at the following schools reviewed the waivers on the dates noted:
District English Language Advisory Committee -01-18-12

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request:

___ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No **XXX** (If there were objections please specify)
There were no objections. All groups understood the importance of this waiver request, though none of them liked the necessity of submitting it.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Hollister School District is seeking to temporarily increase class size in grades 4-8 in order to reduce expenditures. The budget crisis and resulting revenue reductions has caused the District's 2012-13 through 2013-14 anticipated expenditures to exceed revenues by approximately $4.4 million (2011-12 1st Interim Report – MYP). With this waiver, the District would save (i.e. not be assessed penalties of) approximately $1.8 million in 2012/13 through 2013/14 by increasing the average class size. The District requests a waiver to increase the district-wide average number of pupils per each full-time equivalent (FTE) teacher from the current 29.9 per FTE (per EC 41376) to 33 per FTE in grades 4 through 8. The current (2011/12) staffing average (student:teacher ratio) in the Hollister School District is 31.9 per FTE in the targeted grade levels.

In light of the current statewide budget crisis and the reduced revenue to our school district, the potential to increase class size allows us to lower expenditures by reducing staff or not replacing staff lost to natural attrition. By allowing the District to increase average student:teacher ratio to 33, we anticipate a potential expenditure reduction which would directly influence District's operations and ability to provide necessary services for our students in a positive way. We feel that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver.

8. Demographic Information:
Hollister School District (K-8) has a student population of 5600 and is located in a small town in San Benito County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Gary L. McIntire, Ed.D.	Superintendent	
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	5	3	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
HUNTINGTON BEACH CITY SCHOOL DIST	DEBORAH COCKRELL Asst. Superintendent, Human Resources	dcockrell@hbcsd.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
20451 Craimer Lane	Huntington Beach	CA	92646	714-378-2020 Fax Number: 714-963-6848

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2012 To: 6/30/2014	April 17, 2012	April 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376(b) Circle One: *EC* or *CCR*

Topic of the waiver: Class Size

2. If this is a renewal of a previously approved waiver, please list Waiver Number 58-4-2010-W-3 and date of SBE Approval 8/2/2010. Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 5, 2012

Name of bargaining unit and representative(s) consulted: Huntington Beach Elementary Teachers Association
Trinon Carter - (President)

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper _ _ Notice posted at each school ___ Other: *(Please specify)*
Thursday, April 12, 2012

13. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: **See attachment #5**

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

14. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

SEE ATTACHMENT #6

15. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

SEE ATTACHMENT #7

16. Demographic Information:
(*District/school/program)*__ has a student population of __7,203 _ and is located in a _small city_(*urban, rural, or small city etc.)* in __Orange_ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent, Human Resources	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

HUNTINGTON BEACH CITY SCHOOL DISTRICT
GENERAL WAIVER REQUEST (GW-1)
ADDITIONAL INFORMATION

Item #5

The district's nine School Site Councils reviewed this waiver on the following dates:

Eader – January 24, 2012
Hawes –February 22, 2012
Huntington Seacliff – January 23, 2012
Moffett – January 11, 2012
Perry – March 22, 2012
Peterson – March 13, 2012
Smith – January 23, 2012
Sowers Middle School – January 24, 2012
Dwyer Middle School – February 29, 2012

Item # 6

To Waive the Class Size Penalty (Grades 4-8) Prospectively

EC 41376 (b) and (e)

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:~~

~~He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

Item #7

The district requests a renewal of a waiver to increase the district-wide average number of pupils per each full-time equivalent (FTE) teacher from the current 29.9 per FTE (per EC 41376) to 32 per FTE.

The current required average of 29.9 per FTE is lower than the average required by the Huntington Beach City School District Collective Bargaining Agreement (CBA). Article XI of the CBA requires that the average class size shall not exceed the following maximums by eight (8) pupils at K-5 schools and twenty (20) pupils per site at 6-8 schools: grades 1 & 2 – 20.4; K,3,4,5 – 31; 6-8 – 32. The class size average per EC 41376 (29.9) is more restrictive than the collective bargaining agreement.

To meet the requirements of EC41376, the district regularly has had to add at least one FTE above the contractual staffing requirements. The average cost of a new teacher in 2011-12 was $75,889.

In light of the current statewide budget crisis and the reduced revenue to school districts, this additional staffing cost has a detrimental effect on the district's operations and ability to provide necessary services. To protect the instructional integrity of our education program the district will continue to staff per the CBA.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	1	5	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Jamul Dulzura Union Elementary School District	**Lisa Davis, Business Manager**	**ldavis@jdusd.net**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
14581 Lyons Valley Road Jamul California 91935	**(619) 669-7703** Fax Number: **(619) 669-0254**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **7/1/2012** To: **06/30/2013**	**March 14, 2012**	**March 14, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **41376 and 41378** Circle One: ***EC*** or *CCR*

Topic of the waiver: **Waiver of class size penalty for exceeding statewide average (29.9) number of pupils per teacher in Grades 4-8. Request is to increase grades 4-8 to average class sizes of 35**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): JDUTA February 24, 2012 and CSEA#664 February 15, 2012

Name of bargaining unit and representative(s) consulted:

California School Employees Association, Chapter #664: Sandra Hitt, President
Jamul Dulzura Union Teachers Association: Barbara Smithson, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Also, on District Website, District Office and Jamul Post Office

___ Notice in a newspaper **_X__** Notice posted at each school ___ Other: *(Please specify)*

17. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Jamul Primary/Intermediate School Site Council
Oak Grove Middle School Site Council

Date the committee/council reviewed the waiver request:
Jamul Primary/Intermediate School Site Council met January 25, 2012
Oak Grove Middle School Site Council met February 7, 2012

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

18. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30. ~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above:~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2, and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

19. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District requests a waiver to temporarily increase class sizes in grades 4-8 to average class size of 35 in order to reduce expenditures and to meet its required State Reserve level. This District has been experiencing on going declining enrollment for many years now and has been proactive in keeping staffing/enrollment ratios at acceptable levels. However, due to the State's continued funding reductions to school district's revenues and school district's uncertainty of State funding levels from year to year, this District will now be forced to increase class sizes to above the levels currently required. The staffing to enrollment cost savings from a temporary increase in class sizes will be crucial for this district to remain solvent.

20. Demographic Information:
(*District/school/program)* *Jamul Dulzura Union Elementary School District* has a student population of *677* and is located in a *rura*l (*urban, rural, or small city etc.)* *Jamul* in *San Diego* County.

2 sites: Jamul Intermediate grades 4-5 and Oak Grove Middle School grades 6-8

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: **XX**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	5	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Manteca Unified School District	Don Halseth	dhalseth@musd.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2271 West Louise Ave.	Manteca	CA	95337	(209) 825-3200 Fax Number: (209) 825-3295

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/12 To: 6/30/14	4/10/12	4/10/12

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **41376** Circle One: (*EC*) or *CCR*

   Topic of the waiver: Class size penalty

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **26-6-2010-W-10** and date of SBE Approval : **9/20/10**
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X Yes** If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **March 5, 2012**

   Name of bargaining unit and representative(s) consulted: **Manteca Educators Association (MEA)**

   The position(s) of the bargaining unit(s): __ Neutral **X X Support** __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   XX Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

21. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
    District English Language Advisory Committee
    Date the committee/council reviewed the waiver request: **April 4, 2012**
    Were there any objection(s)? No **XX** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

22. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

    See Attached A

23. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

    The District currently has an agreement with the Manteca Educators Association that allows class size for grades 4-8 not to exceed 34. The District is requesting that average class sizes also be allowed not to exceed 34. Please see attached copy of Article XIX – Class Size Ratios. Also please see Attached A for additional documentation.

24. Demographic Information:
    Manteca Unified School District has a student population of **23,193** and is located in a small city in San Joaquin County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Don Halseth	Assistant Superintendent	4/11/12
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

General Waiver Request (GW-1)
Additional Information

ATTACHMENT A

To waive the CSR Penalty (Grades 4-8) prospectively

Education Code 41376 (b) states for grades 4-8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 ~~or March 30, 1964 as selected by the governing board.~~

(2) ~~Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

(3) ~~Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

Manteca Educators Association: Article XIX-Class Size Ratios

The district currently has an agreement with the Manteca Educators Association for the following class sizes:

Kindergarten	(per State-funded and approved guidelines)
1-3 Regular Class	(per State-funded and approved guidelines)
4-12 Regular Class	34

To meet the requirements of EC 41376, the district regularly has had to add additional teachers to meet the average student to teacher ratio. The average cost of a new teacher in 2011/2012 is $70,000.

In light of the current statewide budget crisis and the reduced revenue to the school district, this additional staff costs has had a detrimental effect on the district's operations and its ability to provide necessary services.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	5	2	0	0

Local educational agency: Murrieta Valley Unified School District	Contact name and Title: Stacy Matusek, Director, Fiscal Services	Contact person's e-mail address: smatusek@murrieta.k12.ca.us
Address: (City) (State) (ZIP) 41870 McAlby Court, Murrieta, CA 92562		Phone (and extension, if necessary): 951-696-1600 x1083 Fax Number: 951-304-1533
Period of request: (month/day/year) From: 7/1/12 To: 6/29/14	Local board approval date: (Required) April 26, 2012	Date of public hearing: (Required) April 26, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

Topic of the waiver: EC 41376 Class Size Penalty Waiver for Grades 4th-8th

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires. N/A

3. Collective bargaining unit information. Does the district have any employee bargaining units? No Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Murrieta Teachers Association – March 7, 2012
Classified School Employees Association – March 22, 2012

Name of bargaining unit and representative(s) consulted: Murrieta Teachers Association - Kathy Ericson - President
Classified School Employees Association – Susan Butler-President

The position(s) of the bargaining unit(s): Neutral *** __ Support __ Oppose (*Please specify why*)

***Murrieta Teachers Association – No teacher/teacher association would support larger class sizes. It is unfortunate that our State has forced districts into a budget crisis requiring such drastic steps as huge class sizes.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

25. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request:

Were there any objection(s)? No ___ Yes _X__ (*If there were objections please specify)* Please see attached matrix.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

26. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

27. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

    Over the last four fiscal years, Murrieta Valley Unified School District has lost approximately <$95.5M> in eligible revenue limit funding. In addition, the Governor's January Budget Proposal for 2012-2013 includes the potential for another round of midyear trigger cuts including $4.8B in education reductions if a November 2012 ballot tax measure fails.

    In light of the of continuing statewide budget crisis, reduced revenue and uncertainty Murrieta Valley Unified School District requests a waiver to increase the district-wide average in grades 4 through 8 from 29.9 to 35 students per teacher. Continuing at the 29.9 average would have a detrimental effect on the district's operations and ability to provide necessary services. However, to maintain the instructional integrity of our educational program, the district will follow class size averages as stated in the current collective bargaining agreement: Grades 4th and 5th 32:1 ratio and Grades 6th through 8th 36:1 maximum. To not file this waiver at this time could result in a costly penalty being imposed upon the district.

28. Demographic Information:
    Murrieta Valley Unified School District has a student population of 22,757 and is located in a small city of 100,000+ in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) ☒ No ☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? ☒ No ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	7	3	5	6	9

Local educational agency: Oceanside Unified School District	Contact name and Title: Luis Ibarra, Ed.D., Associate Superintendent, Business Services	Contact person's e-mail address: libarra@oside.us
Address: (City) (State) (ZIP) 2111 Mission Avenue, Oceanside, CA 92058		Phone (and extension, if necessary): 760/966-4016 Fax Number: 760/433-3191
Period of request: (month/day/year) From: July 1, 2012 To: June 30, 2014	Local board approval date: (Required) March 27, 2012	Date of public hearing: (Required) March 27, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376(b) and (e) Circle One: *EC* or *CCR*

Topic of the waiver: In July 2010, the District received a General Waiver of Class Size Reduction in grades 4-8 from 29.9 to 32 students. The district is requesting a renewal of the waiver of EC 41376(b) and (e) and associated penalties so that the district may continue to have the flexibility in grades 4-8 to increase from 29.9 to 32 students.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 51-4-2010-W-4 and date of SBE Approval 08/02/2010
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 14, 2012

Name of bargaining unit and representative(s) consulted: Oceanside Teachers' Association – Terry Hart, President

The position(s) of the bargaining unit(s): **X** Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? See Attachment A

X Notice in a newspaper ___ Notice posted at each school **X** Other: *(Please specify)* District website www.oside.us

29. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: March 14, 2012 (DAC) and March 21, 2012 (DLAC) See Attachment B

X Approve ___ Neutral ___ Oppose
Were there any objection? Yes **X** No ___ (If there were objections please specify) A parent expressed frustration regarding the lack of funding from the state, but ultimately a majority of the parents understood the district's rationale for the waiver request.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

30. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment C

31. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Two years ago, the District was facing a $19 million dollar budget shortfall for 2010-11. As part of the painful budget cutting process, the District needed to increase average class sizes in grades 4-8 from 29.9 to 32 students. The waiver was granted from the California Department of Education for two years. The waiver is set to expire on June 30, 2012. Since the 2010-11 school year, the state financial crisis has not improved. The governor's proposed budget is based upon the passage of voter-approved taxes. If the ballot initiative fails, the District will be faced with an $8 million budget shortfall. The District is not in the financial position to reinstate the lower class sizes in grades 4-8, therefore, the District is requesting a renewal of the waiver of Ed. Code Section 41376 (b) and (e) and the associated penalty be waived in order to maintain the class sizes in grades 4-8 to an average not to exceed 32 students. This waiver extension will end on June 30, 2014, at which time it is anticipated that the District will be in a better financial position to reinstate lower class sizes.

32. Demographic Information:
Oceanside Unified School District has a student enrollment of 19,751 and is located in the city of Oceanside and portions of Camp Pendleton in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 27, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A, Item 4 – Public Hearing Requirement

LEGAL ADVERTISING Ad# 2311425 First taken by 11
03/12/2012 13:02
Printed on 03/12/2012 at 13:11 by 11 Last changed by 11 03/12/2012 13:10

(760) 757-2560 Acct# 30783 Given by OCEANSIDE UNIFIED SCH DIS
OCEANSIDE UNIFIED SCH DIS Start 03/13/2012 Stop 03/13/2012
2111 MISSION AVENUE Transient Bill Expir.
PURCHASING DEPARTMENT Class 16000 LEGAL
ADVERTISING
OCEANSIDE, CA 92054 Index: PUBLIC HEARING
6:30 P.M. MARCH 27,
Subscr? N Cols 1 Lines 37 Inches
3.36 Words 187 Box? N

TOTAL AD COST 71.78

PUBLIC HEARING
6:30 P.M. March 27, 2012
INFO REGARDING GENERAL EDUCATION WAIVER TO WAIVE PENALTY AND ALLOW INCREASE OF MAXIMUM CLASS SIZE AT GRADES 4-8

The Oceanside Unified School District Board of Education will hold a public hearing at 6:30 p.m. on March 27, 2012, concerning a general education waiver to increase maximum class size at grades K-8 and waive associated penalties. The Board of Education is requesting the State Board of Education to allow the Oceanside Unified School District to increase the flexibility in kindergarten by waiving Education Code 41378(b) and (c) requirements to increase the maximum allowable individual class size from 33 to 34 and the district average from 31 to 33. The district requests flexibility in grades 1-3 by waiving Education Code 41376(a) requirement to increase the maximum allowable individual class size from 32 to 34 and the district average from 30 to 33. Additionally, the district requests to continue to increase the flexibility in staffing at grades 4-8 by waiving Education Code 41376(b) and (e) requirements and increase the maximum allowable class size average from 29.9 students to 32 students.
nct 2311425 03/13/2012

Attachment B, Item 5 – Advisory committee or school site council that reviewed the waiver

Oceanside Unified School District
"Guiding Our Students to Bright Futures"

Board of Education
Lillian V. Adams, President
Janet Bledsoe Lacy, Vice President
Adrianne Hakes, Ed.D., Clerk
Roy Youngblood, Member
Emily Ortiz Wichmann, Member

Glenda Cuevas,
Coordinator

DISTRICT ADVISORY COUNCIL (DAC) MEETING
Wednesday, March 14, 2012
6:30 PM

Meeting Notes

Site Representatives: * indicates representatives present at this meeting

Chavez:	*Jenae Torgersen*	**Nichols:**	*Katherine Blume**
Del Rio:	*Tammy Redka*		*Randal Kaufman**
El Camino:		**North Terrace:**	*Kristin Harris**
Foussat:	*Cyntrea Peters*	**Ocean Shores:**	*Zoila Hazel*
Garrison:	*Julie Bates **	**Oceanside High:**	*Diana Paopao*
Ivey Ranch:	*Easter Christopher*	**Palmquist:**	*Oran Bloodsworth **
Jefferson:	*Maribel Philips*	**Reynolds:**	*Angie Cruz*
King:	*Easter Christopher*	**San Luis Rey:**	*Sam McClintock*
Laurel:	*Aide Canseco*	**Santa Margarita:**	*Paul McQuigg **
	Maria Cerda	**South Oceanside:**	*Angela Vorderbruggen*
Libby:	*Jenny Sepulveda*	**Stuart Mesa:**	*MaryAnn Babas **
Lincoln:	*Marisa Stapleton*	**District Staff:**	*Glenda Cuevas **
McAuliffe:	*Kim Hall**	**Guest:**	*Dr. Luis Ibarra*, Dan Daris**
Mission:	*Amy Garrison*		

Welcome/Introductions: Glenda Cuevas welcomed DAC representatives and guests presenters Dr. Luis Ibarra and Dan Daris. Site representatives introduced themselves.

Approval of Minutes from January 11, 2012 Meeting: The minutes from the November 2, 2011 meeting were reviewed and approved.

Extension of Waiver to Increase of Class Sizes (Grades K-8): Dr. Ibarra presented background information regarding the need to extend the waiver we had for the past two years for grades 4-8, maintaining individual class size average at 32. The district is also asking for new flexibility in grades K-3, for increase of individual class size average from 33-34. This flexibility helps to prevent a large number of combination classes across the district. It is probable that the State will grant this waiver because of the continued budget problems. If the district has the waiver flexibility, they will use it judiciously in order to maintain optimal learning environment for our students. Parents had the opportunity to ask questions, provide suggestions and voice their concerns. They voted 7 to 1 in favor of extending the waiver for grades 4-8 and asking for additional class size flexibility for grades K-3.

Bullying - District Policies and Ways Parents Can Help: Dan Daris shared information on the definition and components of bullying; statistics, its impact, what our schools are doing to address bullying, and what parents can do to prevent and address this problem. The PowerPoint presentation will be e-mailed parents.

OUSD College Going Culture: Moved to next meeting.

Ways to Contact Elected Officials: Ways to contact our elected officials:

- United States House of Representatives Finder: https://writerep.house.gov/
- Senators:
  Boxer, Barbara
  112 HART SENATE OFFICE BUILDING WASHINGTON DC 20510
  Phone: (202) 224-3553
  Web Form: www.boxer.senate.gov/en/contact/
  Feinstein, Dianne
  331 HART SENATE OFFICE BUILDING WASHINGTON DC 20510
  Phone: (202) 224-3841
  Web Form: www.feinstein.senate.gov/public/index.cfm/e-mail-me

Other:

- District calendars for 2012-13 and 2013-14 have been approved by the Board and are posted www.oside.us. The 2013-14 calendar includes an earlier start date – August 20, 2013, a shorter Thanksgiving Week holiday, and end to the first semester at the winter break – December 20, 2013. The last day of school will be Wednesday, June 4, 2014
- OUSD will offer full-day kindergarten at the following elementary schools: Del Rio, Garrison, Laurel, Libby, Mission, Nichols, North Terrace, Reynolds, San Luis Ray, South Oceanside and Stuart Mesa. Informational flyers are available at all schools.
- Transitional kinder is the first of a two-year kinder program available for children turning 5 years old between November 2 and December 2. Participating schools are: Laurel, McAuliffe, Nichols, Reynolds and Stuart Mesa. . Informational flyers are available at all schools.
- School Schedules: Next year early start schools and late start schools will flip-flop schedules. The starting times for Mission and Palmquist may be adjusted because they will be at a different location due to remodeling.

Next Meeting: Suggested agenda items for May 23, 2012. Agenda items include:

- OUSD College Going Culture
- Organization of school volunteers
- Determine best night of the week to hold DAC meetings next year

Call or e-mail Mrs. Cuevas if you have agenda items to include in the agenda.

Attachment C Item 6 Education Code Being Waived:

To Waive the Class Size Penalty (Grades 4-8)

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	0	7	5	4	5	7

Local educational agency: Paso Robles Joint Unified School District	Contact name and Title: Kathleen McNamara, Ed.D.	Contact person's e-mail address: kmcnamara@pasoschools
Address: (City) (State) (ZIP) 800 Niblick Road, P.O. Box 7010, Paso Robles, CA 93447		Phone (and extension, if necessary): 805-769-1000 ext. 30101 Fax Number: 805-237-3333
Period of request: (month/day/year) From: 7/1/12 To: 6/30/14	Local board approval date: (Required) March 27, 2012	Date of public hearing: (Required) March 27, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

   Topic of the waiver: Class Size Waiver Grades 4-8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 4-9-2010-w-1 and date of SBE Approval November, 2010.
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 12, 2012

   Name of bargaining unit and representative(s) consulted: Paso Robles Public Educators (PRPE)- Jim Lynett Pres.

   The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: District Language Advisory Committee (DLAC), March 15, 2012

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. Education Code or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Paso Robles Joint Unified School District requests a waiver of E.C. 41376 (b) and (e) for grades 4 through 8. The current bargaining unit class size is 30 to 1 for grades 4 through 8. Our waiver request is to increase class size to an average of 33 to 1 and individual class size of 35 to 1.

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Paso Robles Joint Unified School District is seeking to increase class size in grades 4-8 in the 2012-2013 and 2013-2014 school years in order to reduce expenditures. According to the district, with the current state and federal budgetary challenges and the districts $5.7 million deficit, the district has no choice but to reduce personnel costs to remain solvent. Without the waiver, the district will be forced to remain in Negative Certification and be in danger of state receivership.

Additionally, if this is not waived, it will prevent the District from developing more effective educational programs to improve instruction in reading and mathematics for students in grades 4-8. We appreciate your consideration of our waiver during these critical financial times.

8. Demographic Information:
(*District/school/program* Paso Robles JUSD has a student population of 6,750 and is located in a rural *urban, rural, or small city etc.) i*n San Luis Obispo County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No XX☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No XX☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 3/16/2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	7	3	6	3	5

Local educational agency: Saddleback Valley Unified School District	Contact name and Title: Margarett Lewis, Asst., Supt., Personnel Services	Contact person's e-mail address: Margarett.Lewis@svusd.org
Address: (City) (State) (ZIP) 25631 Peter A. Hartman Way Mission Viejo CA 92691		Phone (and extension, if necessary): (949) 580-3217 Fax Number: (949) 586-4378
Period of request: (month/day/year) From: 09/05/2012 To: 06/18/14	Local board approval date: (Required) April 3, 2012	Date of public hearing: (Required) April 3, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376(b) and (e) Circle One: (*EC*) or *CCR*

Topic of the waiver: Renewal to Waive Class Size Penalty for grades 4-8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _46-10-2010-W-2_ and date of SBE Approval_2/17/11__
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): February 23, February 29, 2012 and on March 22, 3012 class size was discussed in negotiations; on March 22 the District also consulted with chief negotiator Patty Stewart.

Name of bargaining unit and representative(s) consulted: Saddleback Valley Educator's Assoc. (SVEA) – Patty Stewart, Chief Negotiator

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate): During negotiations for a three year contract in 2009/10, SVEA and the District agreed to increase class size in grades 4-12 as a way to address reductions needed due to the state budget cuts. This negotiated agreement was contingent on obtaining a class size waiver for grades 4-8 for the 2011-12 school year. As a result of the impact of the projected ongoing budget crisis, the District has proposed to SVEA in negotiations, a continuation of the current increase in class size. While this is subject to negotiations, SVEA understands that the District must submit this renewal waiver due to required timelines.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *District Office, District Website and Community Library*

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

33. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Class Size Review Committee

Date the committee/council reviewed the waiver request: 3/30/12

Were there any objection(s)? No _X__ Yes ___ Comments: The committee understood the need for the District to renew this waiver, as a result of the State budget crisis, and did not object to the District requesting the renewal of this waiver. However, they expressed concern with the potential impact higher class sizes has on the increased identification of special needs students, which then impacts the District budget. They also expressed concern with the impact higher class sizes has on primary grades, particularly first grade. Finally, they stated that lower class size was a high priority for parents, and wanted to insure the District make lowering class size a priority in restoration for the future.

34. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment 1

35. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See Attachment 2

36. Demographic Information:
Saddleback Valley Unified School District has a student population of 31,960 and is located in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No XX Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No XX Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 4, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Saddleback Valley Unified School District
General Waiver Request (Grades 4-8), Renewal
Attachment 1

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a strike out key if only portions of sections are to be waived).

EC 41376 (b) and (e)

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of~~

~~pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

Saddleback Valley Unified School District
General Waiver Request (Grades 4-8), Renewal
Attachment 1

~~**(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.**~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~**(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:**~~

~~**He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.**~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

Saddleback Valley Unified School District
General Waiver Request (Grades 4-8), Renewal
Attachment 1

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction.

Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

The purposes of this section, a “full-time equivalent classroom teacher” means an employee of an elementary, high school or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular school day. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular school day.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

Saddleback Valley Unified School District
General Waiver Request (Grades 4-8), Renewal
Attachment 2

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Saddleback Valley Unified School District (SVUSD) is seeking to continue with the temporary increase in the average class size in grades 4-8 in order to reduce expenditures, and is making a request to renew the waiver of the class size penalty for these grades. The District believes the renewal of this waiver is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state, and is negotiating the continuation of this class size increase with SVEA, the teacher's union.

The Saddleback Valley Unified School District has faced enormous fiscal challenges since 2007. SVUSD has made over $50 million in expenditure and program cuts during the last three years. For 2010-2011, the District cut $26.5 million in programs, class size, and employee compensation. In addition the District has declined in enrollment 2,600 students from 2007-2012. The District projects that the enrollment will continue to decline and therefore have a negative effect on the District budget over the next several years.

Continuing the current increase of average class size to 34.5 in grades 4-8 for the 2012-13 and 2013-14 school years would save approximately $2 million. To achieve such a savings and avoid being penalized for exceeding the state requirements, Saddleback Valley Unified would require a waiver of Education Code Section 41376 (b) and (e) regarding the State's average class size in 1964 of 29.9 in grades 4-8. This waiver would allow Saddleback Valley Unified flexibility and the time over the next fiscal years to reassess its fiscal position to lower class sizes.

Saddleback Valley Unified has a long history of academic excellence. The District has 13 National Blue Ribbon Schools and 30 State Distinguished Schools. The academic program in place will assist the District in continued achievement and successes as evidenced in the District API score of 862. In addition, 97% of our traditional schools have an API over 800. The District's API scores have shown a steady increase for the past eight years as the District continually updates the curriculum, refines teaching strategies, provides professional development and strengthens intervention programs. Increased class size will be a challenge that we believe we can meet through effective differentiation in the classroom and timely intervention for students at risk at each school site.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Salinas City Elementary School District	**Lona Christensen**	lona@salinascity.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
840 S. Main St.	Salinas	CA	93901	(831) 784-2226 Fax Number: (831) 753-4374

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 07-01-2012 To: 06-30-2014	March 12, 2012	March 12, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 Circle One: ***EC*** or *CCR*

   Topic of the waiver: **Waive Class Size Penalty for Grades 4-6**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. N/A

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Feb. 7, 9, 10,11, 2012 (SETC) & Feb. 21, 22,23, 2012 (CSEA)

   Name of bargaining unit and representative(s) consulted: Salinas Elementary Teachers' Council, Carole Rodrigues, President & Cal. School Employees Assc., Chap 149 Joe Sanchez, President

   The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper **X** Notice posted at each school _X_ Other: *(Please specify)* Posted on District website

37. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
District English Learners Advisory Committee on Feb. 22, 2012 and Budget Advisory Committee on Feb 23, 2012

Date the committee/council reviewed the waiver request: Above

Were there any objection(s)? No **_X** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

38. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

39. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

As the funding to school districts has decreased year after year, our continued success in providing quality education is dependent on flexibility in class sizes. Our Board finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of Education Code section 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

40. Demographic Information:
Salinas Elementary School District has a student population of 8,500 Kindergartens through 6th graders and is located in a predominantly agricultural community in Monterey County. The District operates 13 schools and serves a large migrant population.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: **X**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Santa Rita Union School District	**Mike Brusa, Superintendent**	**mbrusa@santaritaschools.org**

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
57 Russell Road, Salinas, CA 93906	**831-443-7200 ext. 202** Fax Number: **831-442-1729**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2012 To: 06/30/2014	**April 17, 2012**	**April 17, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code 41376 (b) and (c),* the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: (*EC*) or *CCR*

Topic of the waiver: **General waiver to increase class size in grades 4-8**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **62-10-2010** and date of SBE Approval **02/10/2011**. Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __ (Yes) If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 13, 2012**

Name of bargaining unit and representative(s) consulted:

Santa Rita Teachers Association	**Heather Howell**	**Neutral**
California School Employees Association	**Priscilla Luna**	**Support**

The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?
___ Notice in a newspaper **X** Notice posted at each school ___ Other: *(Please specify)*

41. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Santa Rita Union School District Leadership

Date the committee/council reviewed the waiver request: **March 21, 2012**

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)* none

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

42. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

43. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District, as may other district in the State of California has been experiencing an exorbitant los in revenue of over 20%. This loss in revenue is forcing Districts to maximize class sizes and reduce certificated positions as these positions constitute the majority of the District's budget.

The District wishes to change the class size from 29.9 to one teacher, to 33 to one teacher in grades 4-8.

44. Demographic Information:
The Santa Rita Union School District has a student population of 3106 and is located in the outskirts of Salinas, in the Monterey County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: **Mike Brusa**	Title: **Superintendent**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-30

ITEM #W-30

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by seven local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act. Waiver Number: Alum Rock Union Elementary 13-4-2012 Alum Rock Union Elementary 14-4-2012 Lake Tahoe Unified 41-3-2012 Oakland Unified 20-4-2012 Pierce Joint Unified 1-3-2012 Redding Elementary 18-4-2012 Sacramento City Unified 104-2-2012 Yuba City Unified 29-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

See Attachments 1, 3, 5, 7, 9, 11, 13, and 15 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA). Over 90 percent of CSR waiver requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied. Waiver 104-2-2012, submitted by Sacramento City Unified School District, was previously approved by the SBE at the May 2012 meeting and has been resubmitted for technical corrections.

SUMMARY OF KEY ISSUES

Class Size Reduction

Schools participating in the QEIA Program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to

demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to reduce class sizes by 5 students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the *Government Code*, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Alum Rock Unified School District Request 13-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

Attachment 2: Alum Rock Unified School District General Waiver Request 13-4-2012 (6 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Alum Rock Unified School District Request 14-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

Attachment 4: Alum Rock Unified School District General Waiver Request 14-4-2012 (6 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Lake Tahoe Unified School District Request 41-3-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 6: Lake Tahoe Unified School District General Waiver Request 41-3-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 7: Oakland Unified School District Request 20-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 8: Oakland Unified School District General Waiver Request 20-4-2012 (2 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 9: Pierce Joint Unified School District Request 1-3-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 10: Pierce Joint Unified School District General Waiver Request 1-3-2012 (4 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 11: Redding Elementary School District Request 18-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

Attachment 12: Redding Elementary School District General Waiver Request 18-4-2012 (4 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 13: Sacramento City Unified School District Request 104-2-2012 for a Quality Education Investment Act Class Size Reduction Waiver (2 Pages)

Attachment 14: Sacramento City Unified School District General Waiver Request 104-2-2012 (5 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 15: Yuba City Unified School District Request 29-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 16: Yuba City Unified School District General Waiver Request 29-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number: 13-4-2012 **Period of Request:** July 1, 2010, to June 30, 2012
Period Recommended: July 1, 2010, to June 30, 2011
Clyde L. Fischer Middle School **CDS Code:** 43 69369 6046148
Alum Rock Union Elementary School District

Local Educational Agency Request:

Alum Rock Union Elementary School District (UESD) is located in Santa Clara County and has a student population of approximately 12,499 students. Clyde L. Fischer Middle School (MS) has a student population of approximately 634 students in grades six through eight. Monitoring performed by the Santa Clara County Office of Education indicates that the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Clyde L. Fischer MS for 4 grade six classes, 3 grade seven classes, and 14 grade eight classes that exceeded the QEIA 27-student cap per classroom requirement in school year 2010–11. In addition, the class size average in grade eight exceeded the QEIA CSR target. The district's current QEIA CSR target for the average size of core classes of English, mathematics, history-social science, and science is 25.0 for grades six through eight.

Alum Rock UESD states that Clyde L. Fischer MS has been significantly impacted by a high level of student mobility. The district states that students leaving and new students arriving present challenges in constantly adjusting instructional groups. The district states that it was able to place some students in other middle schools to maintain the QEIA 27-student cap, but this was not always possible. The district further states that grade eight was particularly impacted and the mobility factor contributed to exceeding the CSR target by 1.0. The district concludes that actions have been taken and it is currently fully compliant with QIEA requirements.

Alum Rock UESD requests a waiver for exceeding the QEIA 27-student cap per core classroom CSR requirement for 4 grade six classes, 3 grade seven classes, and 14 grade eight classes at Clyde L. Fischer MS for school years 2010–11 and 2011–12. In addition, the district requests a waiver for exceeding the grade eight QEIA CSR target by 1.0 for school year 2010–11. The district is also seeking a waiver for exceeding the QEIA 27-student cap per core classroom CSR requirement for school year 2011–12.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Alum Rock UESD's request to waive the QEIA 27-student cap per core classroom CSR requirement for 4 grade six classes, 3 grade seven classes, and 14 grade eight classes at Clyde L. Fischer MS for school year 2010–11. In addition, the CDE also supports the district's request for a waiver for exceeding the grade eight QEIA CSR target by 1.0 for school year 2010–11 at Clyde L. Fischer MS.

The CDE recommends approval with the following conditions: (1) Applies only to 4 grade six classes, 3 grade seven classes, and 14 grade eight classes at Clyde L. Fischer MS that exceeded the QEIA 27-student cap per core classroom CSR requirement for school year 2010–11; (2) Clyde L. Fischer MS be granted the waiver for

exceeding the grade eight QEIA CSR target by 1.0 for school year 2010–11; (3) The school will meet previously established QEIA CSR targets beginning in 2011–12 and going forward; and, (4) Within 30 days of approval of this waiver, Alum Rock UESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Clyde L. Fischer Middle Schoolsite Council on April 5, 2012.

Supported by Alum Rock Educators Association, April 3, 2012.

Local Board Approval: April 16, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: x_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
4	3	6	9	3	6	9

Local educational agency: Alum Rock Union Elementary School District	Contact name and Title: Sharon Groves, Director of State and Federal Programs	Contact person's e-mail address: sharon.groves@arusd.org
Address: (City) (State) (ZIP) 2930 Gay Ave. San Jose CA 95127		Phone (and extension, if necessary): (408) 928-6590 (408) 928-6800, ext. 6590 Fax Number: (408) 928-6404
Period of request: (month/day/year) From: July 1, 2010 To: June 30, 2012	Local board approval date: (Required) April 16, 2012	Date of public hearing: (Required) April 16, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 Circle One: EC or *CCR*

Topic of the waiver: The Alum Rock Union Elementary School District (ARUESD) is requesting a waiver, on behalf of Fischer Middle School, to waive Quality Education Investment Act (QEIA), Education Code Section 52055.740 (C) (i). Specifically, Fischer Middle School is requesting waiving exit from QEIA based on the Rule of 25. The term of the waiver being requested is July 1, 2010 – June 30, 2012.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **N/A** and date of SBE Approval_____ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No ☑ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 3, 2012

Name of bargaining unit and representative(s) consulted: Alum Rock Educators Association (AREA), Jocelyn Merz, President

The position(s) of the bargaining unit(s): __ Neutral ☑ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper ☑ Notice posted at each school ☑ Notice posted at District Office entrances and on Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Fischer Middle School's SSC reviewed this waiver request on April 5, 2012.

Were there any objection(s)? No ☑ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) ~~At least five pupils fewer per classroom than was the average in 2006-07~~.

(ii) ~~An average of 25 pupils per classroom~~.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the school site. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. ~~A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4th-12th, inclusive, with more than 27 pupils regardless of its average classroom size.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please see attachment which responds to Question #7

8. Demographic Information:
Fischer Middle School has a student population of 634 and is located in an urban area in the city of San Jose in Santa Clara County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☑ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☑ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent of Alum Rock Union Elementary School District	Date: April 9, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Fischer Middle School

Attachment to Waiver: Question #7, Desired outcome/rational

Alum Rock Union Elementary School District (ARUESD) is located in San Jose, CA and serves approximately 12,499 students in grades K-8 in 26 schools. Fischer Middle School is one of six comprehensive middle schools in District and serves 634 students in grades 6-8. The student population includes 520 (82%) Socioeconomically Disadvantaged students and 259 (41%) English Language Learners. A waiver of two QEIA requirements (1) the Rule of 27 and (2) exceeding the Class Size Reduction (CSR) ratio in 8th grade is requested from July 1, 2010 through June 30, 2012. The Rule of 27 requires that all sections of the core instructional program (language arts, math, science and social studies) have no more than 27 students in any given section. The QEIA required CSR average ratio for Fischer is 25:1.

In 2010-2011, Fischer offered 118 core classes. In 27 classes, the number of students exceeded the Rule of 27. The average CSR ratio was exceeded in grade 8 only (25.9). However, it is important to note that the school has met or exceeded all other requirements of the statute and demonstrated significant overall academic achievement and for all numerically significant subgroups. Specifically, Fischer's school-wide Academic Performance Index (API) increased by 26 points (3.8%) between 2009 and 2011. The District's 2nd assessment benchmark data suggests that this positive trend will continue with the California Standards Test in spring 2012.

Overall API Growth Scores and Growth 2009 – 2011					
School	2009	2010	2011	3 year API Growth	3 year Growth percentage
Fischer	**686**	**673**	**712**	**26**	**3.8%**
George	705	706	738	33	4.7%
Mathson	689	667	672	-17	-2.5%
Ocala	709	732	738	29	4.1%
Renaissance	821	827	855	34	4.1%
Sheppard	765	774	743	-22	-2.9%

Fischer Middle School includes three numerically significant subgroups: Hispanic, English Language Learners, and Socioeconomically Disadvantaged students. The significant increase in the academic achievement of each subgroup as reported by the API is shown in the following charts.

Subgroups API Scores and Growth

Hispanic					
School	2009	2010	2011	Growth to 2011	Percent of Growth
Fischer	**674**	**655**	**696**	**22**	**3.3%**
George	685	689	721	36	4.7%
Mathson	671	658	650	-21	2.5%
Ocala	675	705	710	35	4.1%
Renaissance	812	806	838	26	3.2%
Sheppard	678	686	668	-10	-2.9%

English Language Learners					
School	2009	2010	2011	Growth to 2011	Percent of Growth
Fischer	**652**	**648**	**675**	**23**	**3.5%**
George	644	654	678	34	5.3%
Mathson	648	633	622	-26	-4.0%
Ocala	650	694	678	28	4.3%
Renaissance	730	761	779	49	6.7%
Sheppard	708	721	673	-35	-4.9%

Socio-Economically Disadvantage					
School	2009	2010	2011	Growth to 2011	Percent of Growth
Fischer	**686**	**673**	**712**	**26**	**3.8%**
George	698	686	738	40	5.7%
Mathson	682	661	673	-9	-1.3%
Ocala	709	731	738	29	4.1%
Renaissance	821	827	856	35	4.3%
Sheppard	737	754	743	6	0.8%

Fischer Middle School increased student achievement by 26 API points from spring 2009 to spring 2011, a 3.8% increase. Statistically significant subgroups Hispanic (22 points 3.3%), English Language Learners (23 points, 3.5%), and Socioeconomically Disadvantaged (26 points, 3.8%) all increased at rates comparable to the overall school. The school made significant progress in narrowing the achievement gap for these students. QEIA funds have played an important role in this remarkable academic achievement data.

Justification and Rationale for Total Core Sections above 27 and Exceeding 25:1 Ratio in Grade 8

There are several reasons that Fischer did not meet the Rule of 27 and CSR in eight grade.

- Fischer has diligently complied with all requirements set forth by New Directions the District Assistance Intervention Team (DAIT). As a DAIT District, students were leveled for instruction based on specific achievement data.
- Fischer has strategically regrouped students to provide differentiated instruction, support and intervention based upon student achievement data. Fischer has implemented assessment practices such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and standards-based benchmark and short cycle assessments to flexibly and regularly group and regroup students based upon current specific academic need. Fischer has fully implemented alternative core and support curricula such as *Language!* to align instruction with identified instructional need.
- Fischer has worked closely with highly effective external support providers to restructure its assessment, placement, scheduling, grouping, instruction, and progress monitoring practices to accelerate achievement for at-risk students. Partners in School Innovation, Pivot Learning Partners, the Santa Clara County Office of Education, and the New Teacher Center have all provided support and training in meaningful use of data to inform instructional practices, and in best instructional practices.
- Fischer has been significantly impacted by a high level of student mobility. During 2010-11, Fischer had 64 students withdrawn and 71 students enter after the school year started. Students leaving and new students arriving presents additional challenges in constantly adjusting instructional groups. While the school was able to place some students in other middle schools to maintain the Rule of 27and CSR ratio, this was not always possible. The closest middle school to Fischer is not within walking distance and some parents could not provide transportation.
- Eighth grade was particularly impacted by students entering Fischer for whom a transfer to the closest school was not a viable option. Specifically, thirteen 8th grade students entered between January and May 2012 when space at other schools was not available. Ensuring transportation and providing classroom space for some students was possible, however, some students could not be transferred to the neighboring schools as the additional students pushed the District's normal class size ratios in non-QEIA schools over acceptable levels. The mobility factor contributed greatly to exceeding by .9 the CSR 25:1 ratio.

All of these initiatives and efforts, diligently implemented, have resulted in significant improvement in achievement for all students, including the significant subgroups. However, these best practices in grouping and regrouping students based upon instructional need have caused regular and ongoing difficulty in complying with the Rule of 27. Grouping at-risk students for effective intervention and support may require smaller class sizes, which then create pressure for larger class sizes for students currently meeting or exceeding grade level standards. This practice within the context of a departmentalized program with a master

schedule of 126 core sections has caused the previously identified classes to exceed the QEIA Rule of 27. In addition, the high student mobility and the lack of transfer options, led to Fischer exceeding the CSR ratio in eighth grade.

Steps Implemented to Ensure Total Core Section Compliance with the Rule of 27 and CSR Ratio

After close consultation with the Northern California QEIA Assistance Center and the Santa Clara County Office of Education QEIA monitor, Alum Rock Union Elementary School District has revamped local monitoring of compliance with QEIA requirements.

1. The local monitoring plan includes monthly meetings with the site principals of the QEIA schools to ensure understanding of the compliance requirements and daily monitoring of school compliance with all QEIA Class Size Reduction requirements.
2. To ensure internal monitoring, Fischer administrative and support staff can now directly access the new student database to determine the projected impact on class size for the entire year, if an additional student is added to any core section.
3. The District has also provided support for Fischer Middle School in navigating the complexities of master scheduling and appropriate instructional grouping.
4. As part of the internal control, Fischer has changed the registration procedures for students entering after the start of the new school year. Upon enrollment, the school verifies that space is available and notifies parents if their child must be placed at another school. If a transfer is necessary, staff works with parents on transportation options such as busing or carpool availability. Fischer also maintains a database of students wanting to return when an opening occurs.
5. In 2011-2012, the school opened an additional classroom which provides one additional, multi-subject teacher to allow more flexibility in the master schedule and to provide space for new students. Fischer shares its campus with another smaller district middle school, Renaissance Academy, and every available space is utilized. The new classroom was created through a collaborative effort to relocate the Student Broadcasting and one core classroom into a large portable. This arrangement effectively provides additional space for 5 core sections. The arrangement will continue in future years.

These extensive internal controls are being effectively implemented in 2011-2012. **Fischer Middle School is fully compliant with QEIA requirements at this time.** While we expect compliance to be maintained for 2011-12, we are requesting a waiver to the end of this school year. This additional time will ensure that all monitoring efforts explained above are fully implemented in 2011-12 and in subsequent years.

In 2011-2012, Fischer received $575,100 QEIA funding which supports five teaching positions, professional development, technology integration and opportunities for students to participate in extensive after-school interventions and Saturday Academies. The students, parents and teachers of Fischer Middle School and the Santa Clara County Office of Education acknowledge and support the continuation of QEIA funding as vital to the continued success of the under-served students in this large comprehensive middle school.

Waiver Number: 14-4-2012 **Period of Request:** July 1, 2010, to June 30, 2012
Period Recommended: July 1, 2010, to June 30, 2011
Joseph George Middle School **CDS Code:** 43 69369 6068910
Alum Rock Union Elementary School District

Local Educational Agency Request:

Alum Rock Union Elementary School District (UESD) is located in Santa Clara County and has a student population of approximately 12,499 students. Joseph George Middle School (MS) has a student population of approximately 621 students in grades six through eight. Monitoring performed by the Santa Clara County Office of Education indicates that the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Joseph George MS for four grade six classes and eight grade eight classes that exceeded the QEIA 27-student cap per classroom requirement in school year 2010–11. The district's current QEIA CSR target for the average size of core classes of English, mathematics, history-social science, and science is 25.0 for grades six through eight.

Alum Rock UESD states that Joseph George MS has been significantly impacted by a high level of student mobility. The district states that students withdrawing and entering present challenges in constantly adjusting instructional groups. The district states that it was able to place some students in other middle schools to maintain the QEIA 27-student cap, but this was not always possible. The district concludes that actions have been taken and it is currently fully compliant with QIEA requirements.

Alum Rock UESD requests a waiver for exceeding the QEIA 27-student cap per core classroom CSR requirement for four grade six classes and eight grade eight classes at Joseph George MS for school years 2010–11. The district is also seeking a waiver for exceeding the QEIA 27-student cap per core classroom CSR requirement for school year 2011–12.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Alum Rock UESD's request to waive the QEIA 27-student cap per core classroom CSR requirement for four grade six classes and eight grade eight classes at Joseph George MS for school year 2010–11.

The CDE recommends approval with the following conditions: (1) Applies only to four grade six classes and eight grade eight classes at Joseph George MS that exceeded the QEIA 27-student cap per core classroom CSR requirement for school year 2010–11; (2) The school will meet previously established QEIA CSR targets beginning in 2011–12 and going forward; and (3) Within 30 days of approval of this waiver, Alum Rock UESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Joseph George Middle Schoolsite Council on April 5, 2012.

Supported by Alum Rock Educators Association, April 3, 2012.

Local Board Approval: April 16, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	3	6	9	3	6	9

Local educational agency: Alum Rock Union Elementary School District	Contact name and Title: Sharon Groves, Director of State and Federal Programs	Contact person's e-mail address: sharon.groves@arusd.org
Address: (City) (State) (ZIP) 2930 Gay Ave. San Jose CA 95127		Phone (and extension, if necessary): (408) 928-6590 (408) 928-6800, ext. 6590 Fax Number: (408) 928-6404
Period of request: (month/day/year) From: July 1, 2010 To: June 30, 2012	Local board approval date: (Required) April 16, 2012	Date of public hearing: (Required) April 16, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 Circle One: EC or *CCR*

   Topic of the waiver: The Alum Rock Union Elementary School District (ARUESD) is requesting a waiver, on behalf of George Middle School, to waive Quality Education Investment Act (QEIA), Education Code Section 52055.740 (C) (i). Specifically, George Middle School is requesting waiving exit from QEIA based on the Rule of 27. The term of the waiver being requested is July 1, 2010 – June 30, 2012.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **N/A** and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No ☑ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 3, 2012

   Name of bargaining unit and representative(s) consulted: Alum Rock Educators Association (AREA), Jocelyn Merz, President

   The position(s) of the bargaining unit(s): __ Neutral ☑ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper ☑ Notice posted at each school ☑ Notice posted at District Office entrances and on Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: George Middle School's SSC reviewed this waiver request on April 5, 2012.

Were there any objection(s)? No ☑ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740.
(C) (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the school site. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. ~~A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4th-12th, inclusive, with more than 27 pupils regardless of its average classroom size.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Please see attachment which responds to Question #7

8. Demographic Information:
George Middle School has a student population of 621 and is located in an urban area in the city of San Jose in Santa Clara County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☑ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☑ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent of Alum Rock Union Elementary School District	Date: April 9, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

George Middle School

Attachment to Waiver: Question #7, Desired outcome/rational

Alum Rock Union Elementary School District (ARUESD) is located in San Jose, CA and has a population of approximately 12,499 students in grades K-8 in 26 schools. George Middle School is one of six comprehensive middle schools in ARUESD serving 621 students in grades 6-8. The student population includes 494 (80%) Socioeconomically Disadvantaged students and 220 (35%) English Language Learners. A waiver of one QEIA requirement, the Rule of 27, is requested from July 1, 2010 through June 30, 2012. The Rule of 27 requires that all sections of the core instructional program (language arts, math, science and social studies) have no more than 27 students in any given section.

In 2010-2011, George offered a total of 126 core classes. In 12 core classes, the number of students exceeded the Rule of 27; however, it is important to note that the school has met or exceeded all other requirements of the statute and demonstrated significant academic achievement overall and for all numerically significant subgroups. Specifically, George's school-wide Academic Performance Index (API) increased by 33 points between 2009 and 2011, which is the largest increase (4.7%) of any middle school in the District over the same period. The District's 2nd assessment benchmark data suggests that this positive trend will continue with the California Standards Test in spring 2012.

Overall API Growth Scores and Growth 2009 – 2011					
School	2009	2010	2011	3 year API Growth	3 year Growth percentage
George	**705**	**706**	**738**	**33**	**4.7%**
Fischer	686	673	712	26	3.8%
Mathson	689	667	672	-17	-2.5%
Ocala	709	732	738	29	4.1%
Renaissance	821	827	855	34	4.1%
Sheppard	765	774	743	-22	-2.9%

George Middle School includes three numerically significant subgroups: Hispanic, English Language Learners, and Socioeconomically Disadvantaged students. The significant increase in the academic achievement of each subgroup as reported by the API is shown in the following charts.

Subgroups API Scores and Growth

Hispanic					
School	2009	2010	2011	3 year API Growth	3 year Growth percentage
George	**685**	**689**	**721**	**36**	**5.3%**
Fischer	674	655	696	22	3.3%
Mathson	671	658	650	-21	-3.1%
Ocala	675	705	710	35	5.2%
Renaissance	812	806	838	26	3.2%
Sheppard	678	686	668	-10	-1.5%

English Language Learners					
School	2009	2010	2011	3 year API Growth	3 year Growth percentage
George	**644**	**654**	**678**	**34**	**5.3%**
Fischer	652	648	675	23	3.5%
Mathson	648	633	622	-26	-4.0%
Ocala	650	694	678	28	4.3%
Renaissance	730	761	779	49	6.7%
Sheppard	708	721	673	-35	-4.9%

Socio-Economically Disadvantaged					
School	2009	2010	2011	3 year API Growth	3 year Growth percentage
George	**698**	**686**	**738**	**40**	**5.7%**
Fischer	686	673	712	26	3.8%
Mathson	682	661	673	-9	-1.3%
Ocala	709	731	738	29	4.1%
Renaissance	821	827	856	35	4.3%
Sheppard	737	754	743	6	0.8%

George Middle School increased student achievement by 33 API points from spring 2009 to spring 2011, a 4.7% increase. Statistically significant subgroups Hispanic (36 points, 5.3%), English Language Learners (34 points, 5.3%), and Socioeconomically Disadvantaged (40 points, 5.7%) all increased at rates greater than the overall school. The school made significant progress in narrowing the achievement gap for these students. QEIA funds have played an important role in this remarkable academic achievement data.

Justification and Rationale for Total Core Sections above 27

There are several reasons that George exceeded the Rule of 27 in Core classes:

- George has diligently complied with all requirements set forth by New Directions the District Assistance Intervention Team (DAIT). As a DAIT District, students were leveled for instruction based on specific achievement data.
- George has strategically regrouped students to provide differentiated instruction, support and intervention based upon student achievement data. George has implemented assessment practices such as the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and standards-based benchmark and short cycle assessments to flexibly and regularly group and regroup students based upon current specific academic need. George has fully implemented alternative core and support curricula such as *Language!* to align instruction with identified instructional need.
- George has worked closely with highly effective external support providers to restructure its assessment, placement, scheduling, grouping, instruction, and progress monitoring practices to accelerate achievement for at-risk students. Partners in School Innovation, Pivot Learning Partners, the Santa Clara County Office of Education, and the New Teacher Center have all provided support and training in meaningful use of data to inform instructional practices, and in best instructional practices.
- George has been significantly impacted by a high level of student mobility. During the 2010-11, George had 61 students withdrawn and 61 students enter after the school year started. Students leaving and new students arriving presents additional challenges in constantly adjusting instructional groups. While the school was able to place some students in other middle schools to maintain the Rule of 27, this was not always possible. The closest middle school to George is not within walking distance and some parents could not provide transportation.

All of these initiatives and efforts, diligently implemented, have resulted in significant improvement in academic achievement for all students, including numerically significant subgroups. However, these best practices in grouping and regrouping students based upon instructional need have caused regular and ongoing difficulty in complying with the Rule of 27. Grouping at-risk students for effective intervention and support may require smaller class sizes, which then create pressure for larger class sizes for students currently meeting or exceeding grade level standards. This practice within the context of a departmentalized program with a master schedule of 126 core sections has caused the previously identified classes to exceed the QEIA Rule of 27.

Steps Implemented to Ensure Total Core Section Compliance with the Rule of 27

After close consultation with the Northern California QEIA Assistance Center and the Santa Clara County Office of Education QEIA monitor, the District has revamped local monitoring of compliance with QEIA requirements.

1. The local monitoring plan includes monthly meetings with the site principals of the QEIA schools to ensure understanding of the compliance requirements and daily monitoring of school compliance with all QEIA Class Size Reduction requirements.
2. To ensure internal monitoring, George administrators and administrative support staff can now directly access the new student database to determine the projected impact on the entire school year, if a new student is enrolled.
3. The District has also provided assistance to George Middle School in navigating the complexities of master scheduling and appropriate instructional grouping.
4. As part of the internal controls, George has changed the registration procedures for students entering after the start of the school year. Upon enrollment, the school verifies that space is available and notifies parents if their student must be placed at another school. If a transfer is necessary, staff works with parents on transportation options such as busing or carpool availability. George also maintains a database of students wanting to return when an opening occurs.

These extensive internal controls are being effectively implemented in 2011-2012. **George Middle School is fully compliant with QEIA requirements at this time**. While we expect compliance to be maintained for 2011-12, we are requesting a waiver to the end of this school year. This additional time will ensure that all monitoring efforts explained above are fully implemented in 2011-12 and in subsequent years.

In 2011-2012, George received $556,200 QEIA funding which supports six teaching positions to lower class size, one Visual and Performing Arts (VAPA) Coach, technology integration, professional development, and parent engagement activities. The VAPA program includes elective courses in dance, art, drama, choir, drum corps, and band. QEIA funding has created opportunities for all students to experience the integration of the arts into the curriculum, which provides enrichment and motivation directly impacting student achievement. The students, parents and teachers of George Middle School and the Santa Clara County Office of Education acknowledge and support the continuation of QEIA funding as vital to the continued success of the under-served students in this large comprehensive middle school.

Waiver Number: 41-3-2012 **Period of Request:** July 1, 2012, to June 30, 2013
Period Recommended: July 1, 2012, to June 30, 2013
Bijou Community School **CDS Code:** 09 61903 6005540
Lake Tahoe Unified School District

Local Educational Agency Request:

Lake Tahoe Unified School District (USD) is located in rural El Dorado County and has a student population of approximately 3,858 students. Bijou Community School (CS) has a student population of approximately 521 students in kindergarten and grades one through five. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school year 2012–13. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three (K–3), 23.3 in grade four, and 20.3 in grade five.

Lake Tahoe USD states that there are currently three K–3 combination classes at Bijou CS and an increase in class size average would enable it to reduce the number of combination classes. The district states increasing the class size average would eliminate the need to split siblings between schools, allow enrollment of new students, and eliminate the need for students to be transported to another elementary school. The district states that hiring teachers to maintain the QEIA CSR targets is unattainable due to budget constraints.

Lake Tahoe USD requests a waiver of the QEIA CSR targets for kindergarten, grades one through three, and grade five at Bijou CS for school year 2012–13, and the establishment of an alternative CSR target of 22.0 per class in core classes in K–3, and 23.0 students on average in core classes in grade five.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Lake Tahoe USD's request to increase its CSR target for kindergarten, grades one through three, and grade five at Bijou CS.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten, grade one through three, and grade five classes at Bijou CS for school year 2012–13; (2) Bijou CS increase enrollment to 22.0 per class in core classes in kindergarten and grades one through three and 23.0 on average in core classes in grade five for school year 2012–13; and (3) Within 30 days of approval of this waiver, Lake Tahoe USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Bijou Community Schoolsite Council on February 1, 2012.

Neutral Position by South Tahoe Educators Association, February 2, 2012.

Local Board Approval: February 14, 2012

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	9	6	1	9	0	3

Local educational agency: **Lake Tahoe Unified School District**	Contact name and Title: **Dr. James R. Tarwater** **Superintendent**	Contact person's e-mail address: **jtarwater@ltusd.org**
Address: (City) (State) (ZIP) **1021 Al Tahoe Blvd. South Lake Tahoe CA 96150**		Phone (and extension, if necessary): **(530) 541-2850 X 229** Fax Number: **(530) 543-2200**
Period of request: (month/day/year) From: **July 1, 2012** To: **June 30, 2013**	Local board approval date: (Required) **February 14, 2012**	Date of public hearing: (Required) **February 14, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*
52055.740(a)
Topic of the waiver: **QEIA Class Size Reduction**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **February 2, 2012**

Name of bargaining unit and representative(s) consulted: **South Tahoe Educators Association , Jodi Dayberry**

The position(s) of the bargaining unit(s): _**X**_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _**X**_ Notice posted at each school _**X**__ Other: *(Please specify)*
Education Center – Poster Board

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Bijou School Site Council

Date the committee/council reviewed the waiver request: **February 1, 2012**

Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

~~(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction program (Chapter 6.10 (commencing with Section 52120)).~~

~~(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:~~

~~(i) At least five pupils fewer per classroom than was the average in 2006-07.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Lake Tahoe Unified School District is requesting an increase in the QEIA class size average from 20 to 22 pupils per classroom in grades kindergarten through third and 20 to 23 pupils per classroom in fifth grade (fourth grade has a class size average of 23 and will remain the same) for the period of July 1, 2012 through June 30, 2013 at its only QEIA school - Bijou Community School.

Lower class sizes have always been a priority of the Board of Education of the Lake Tahoe Unified School District. However, in recent years, state level cuts to revenue limit funding have resulted in teacher reductions, causing an increase in the student-to-teacher ratio in all schools in the district.

Continued on additional page

8. Demographic Information:
Lake Tahoe USD has a total student population of 3858 (2011 CBEDS) consisting of 62.5 % Free & Reduced Lunch, 28% English Learners, and 52% ethnic minorities and is located in a rural area of El Dorado County. Bijou Community School is a schoolwide Title I school. 84% of the student population qualifies for Free & Reduced Lunch; 66% are English Learners; and 79% are ethnic minorities.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date: **February 9, 2012**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

LAKE TAHOE UNIFIED SCHOOL DISTRICT
WAIVER TO INCREASE QEIA CLASS SIZE
Additional Page

Currently, all K-5 classrooms are at capacity with 23:1 in grades K-3 and 30:1 in grade 5 at all non-QEIA schools. This ratio has allowed schools to continue to qualify for CSR funding with penalties. For the 2012-2013 school year, class sizes in non-QEIA at grades K-3 will increase to 24.94 and 32 at grade 5, due to additional state funding reductions, especially the reductions to transportation at $391 per student.

There are currently three K-3 combination classes at Bijou Community School. An increase in class size average from 20 to 22 pupils in grades K-3 and 20 to 23 pupils in grade 5 per classroom at this school would enable the District to reduce the number of combination classes.

Furthermore, it would avoid the need to split siblings between schools due to over-enrollment, allow enrollment of new students and eliminate the need for students to be transported across the District where a space may exist at another elementary school. Hiring teachers to maintain the QEIA targets is unattainable at this time due to budget constraints.

A waiver would allow the District to keep students at their home school with siblings and in a class with their grade level peers. Student achievement on CSTs has resulted in academic gains at Bijou Community School due, in part, to limiting the size of combination classes. Consistent enrollment in the neighborhood school with teachers focused on one grade level curricula is in the best interest of these students.

Waiver Number: 20-4-2012 **Period of Request:** July 1, 2010, to June 30, 2011
Period Recommended: July 1, 2010, to June 30, 2011
Markham Elementary School **CDS Code:** 01 61259 6002059
Oakland Unified School District

Local Educational Agency Request:

Oakland Unified School District (USD) is an urban school district located in Alameda County and has a student population of approximately 46,600 students. Markham Elementary School (ES) has a student population of approximately 365 students in kindergarten and grades one through five. Monitoring performed by the Alameda County Office of Education indicates that the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met in school year 2010–11.The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science in kindergarten and grades one through three are 20.44, and in grades four and five, 25.0 and 17.67, respectively.

Oakland USD states that Markham ES had one kindergarten class with an ending enrollment of 20.58. The district requests that it not be held noncompliant for missing this kindergarten class target.

Oakland USD requests a waiver of the QEIA CSR target for kindergarten at Markham ES for school year 2010–11 and the establishment of an alternative CSR target of 21.0 per class in kindergarten.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Oakland USD's request to increase its CSR target for kindergarten at Markham ES.

The CDE recommends approval with the following conditions: (1) Applies only to kindergarten classes at Markham ES for school year 2010–11; (2) Markham ES increase enrollment to 21.0 per class in kindergarten for school year 2010–11; and (3) Within 30 days of approval of this waiver, Oakland USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Markham Elementary Schoolsite Council on January 24, 2012.

Neutral Position by Oakland Education Association, January 6, 2012.

Local Board Approval: January 25, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	0	2	0	5	9

Local educational agency: Oakland Unified School District on behalf of Markham Elementary School	Contact name and Title: David Montes de Oca – Executive Director	Contact person's e-mail address: david.montes@ousd.k12.ca.us
Address: (City) (State) (ZIP) 1025 Second Ave. Oakland, CA 94606-2212		Phone (and extension, if necessary): 510-336-7500 Fax Number: 510-482-6674
Period of request: (month/day/year) From: 07/01/10 To: 06/30/11	Local board approval date: (Required) 1/25/2012	Date of public hearing: (Required) January 25, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Class size Reduction Targets temporarily increased.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): January 18, 2012

   Name of bargaining unit and representative(s) consulted: OEA

   The position(s) of the bargaining unit(s): __X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper ___ Notice posted at each school _X__ Other: *(Please specify)* Notice posted at District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request:

   Were there any objection(s)? No __X Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:
(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

This Waiver is requesting that the Class Size Reduction Target established for Markham Elementary School of 20.44 in grade Kindergarten, and be increased to 21 students for the 2010-2011 school year in light of the following circumstances:

Markham began the year with one class over 20.44 students. Its monthly ending enrollment average at the end of the year was 20.45. Given this school's dramatic growth (see attached) during its QEIA funding, we ask that it not be held non-compliant for missing its target by one one-hundredth.

8. Demographic Information:
Oakland USD has a student population of 46,600 and is located in an Urban Setting *in Alameda* County.
Markham Elementary School has a student population of 365.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 1-3-2012 **Period of Request:** July 1, 2011, to June 30, 2014
Period Recommended: July 1, 2011, to June 29, 2013
Lloyd G. Johnson Junior High School **CDS Code:** 06 61614 6103576
Pierce Joint Unified School District

Local Educational Agency Request:

Pierce Joint Unified School District (JUSD) is a rural school district located in Colusa County and has a student population of approximately 1,325 students. Lloyd G. Johnson Junior High School (JHS) has a student population of approximately 325 students in grades six through eight. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2011–12, 2012–13, and 2013–14. The district's current QEIA CSR target for the average size of core classes of English, mathematics, history-social science, and science are 19.0 in grades six through eight.

Pierce JUSD states that it is experiencing a large class of 133 grade eight students in school year 2011–12 due to the inclusion of Special Education students now attending regular core classes. The district states that with this large class, and the full inclusion of the Special Education students, it will not meet its 2011–12 QEIA CSR targets. Lloyd G. Johnson JHS is the only middle school in the district and this eliminates the option of moving students to another school.

Pierce JUSD requests a waiver of the QEIA CSR target for grades six through eight at Lloyd G. Johnson JHS for school years 2011–12, 2012–13, and 2013–14 and the establishment of an alternative CSR target of 22.0 on average in core classes in grade six through eight.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Pierce JUSD's request to increase its CSR target for grade six through eight at Lloyd G. Johnson JHS.

The CDE recommends approval with the following conditions: (1) Applies only to grade six through eight classes at Lloyd G. Johnson JHS for school years 2011–12 and 2012–13; (2) Lloyd G. Johnson JHS increase enrollment to 22.0 per class on average in core classes in grades six through eight for school year 2011–12 and 2012–13; and (3) Within 30 days of approval of this waiver, Pierce JUSD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Lloyd G. Johnson Junior High Schoolsite Council on February 21, 2012.

Supported by Pierce Joint Unified Educators Association and California School Employees Association, February 16 and 17, 2012.

Local Board Approval: February 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	6	6	1	6	1	4

Local educational agency: Pierce Joint Unified School District	Contact name and Title: Daena Meras	Contact person's e-mail address: dmeras@pierce.k12.ca.us
Address: (City) (State) (ZIP) 540-A 6th Street Arbuckle CA 95912		Phone (and extension, if necessary): (530)476-2892 ext. 13005 Fax Number: (530)476-2289
Period of request: (month/day/year) From: 7/1/2011 To: 6/30/2014	Local board approval date: (Required) February 24, 2012	Date of public hearing: (Required) February 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Portions of 52055.740a Circle One: *EC* or *CCR*

   Topic of the waiver: Increase QEIA Class Size Reduction targets thru 2013/14 in core classes at Lloyd G. Johnson Jr. High

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Pierce Joint Unified Educators Association (CTA) on February 16, 2012
   CSEA-Classified Bargaining Unit on February 17, 2012
   Name of bargaining unit and representative(s) consulted: PJUEA (CTA): Charles Franklin, President
   CSEA: Lorena Tejeda, President
   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* and 3 public places (Post Office; Arbuckle Food Center; District

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Lloyd G. Johnson Junior High School Site Council

   Date the committee/council reviewed the waiver request: February 21, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment to waiver for Item 6: Education code section to be waived: Portions of EC 52055.740(a).

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   We currently have an approved waiver for 6th, 7th and 8th grade school wide average of 19 and a maximum of 25 average per class. We are requesting that our QEIA target for Lloyd G. Johnson Jr. High School be increased to 22 school wide for grades 6th, 7th, and 8th in all core classes with a maximum of 27 through 2013/14. Pierce Joint Unified School District is experiencing a large class of 133 students in the 8th grade in the current 2011/12 fiscal year. There was a change in our Special Education program this 2011/12 school year, in which 45 students who were in a Special Education classroom were pushed in the regular core classes. With the current target in place, the classes would need to be 19, at this time with our current staff our ratio would be 21 students. We have added 4 teachers with our QEIA funding to reach our targets, and through 2010/11 we have reached these targets. But with this large class and the full inclusion of the Special Education students we will not meet our targets without adding additional staff in departmentalized classes, which our district can't afford in these economic times. Since Lloyd G. Johnson Jr. High is the only middle school in our district, we don't have the option of moving students to another school.

8. Demographic Information:
   Pierce Joint Unified School District has a student population of 1,325 and is located in a rural area in Colusa County. Lloyd G. Johnson Junior High is the only middle school in the school district.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment to waiver: Item 6: Education code section to be waived: Portions of EC 52055.740(a)

EC 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive~~**, an average classroom size that is the lesser of clause (i) or (ii), as follows**~~**:**

~~**(i) At least five pupils fewer per classroom than was the average in 2006-07.**~~

~~**(ii) An average of 25 pupils per classroom**~~**.**

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. **If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph.** A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in **English language arts, reading, mathematics, science, or history and social science** courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(**i) At least five pupils fewer per classroom than was the average in 2006-07.**

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the schoolsite. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4 to 12, inclusive, with more than 27 pupils regardless of its average classroom size.

(**D) Not increase any other class sizes in the school above the size used during the 2005-06 school year. If a funded school has a low-enrollment innovative class, it may increase the number of pupils in that class to a number that does not exceed the schoolwide average.**

(2) In high schools, have a pupil-to-counselor ratio of no more

than 300 to 1. Each counselor shall hold a services credential with a specialization in pupil personnel services issued by the Commission on Teacher Credentialing.

(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(4) Using the index established under Section **52055**.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

(5) Exceed the API growth target for the school averaged over the first three full years of funding. Beginning in the fifth year of participation, funded schools shall meet their annual API growth targets. If the school fails to meet its annual growth target, the school shall continue to receive funding pursuant to this article, but shall be subject to state review, assistance, and timeline requirements pursuant to the HPSGP under Section **52055**.650. The schoolsite administrator shall not automatically be reassigned based solely on that failure.

(b) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following interim requirements:

(1) Be at least one-third of the way toward meeting each of the program requirements specified in paragraphs (1) to (5), inclusive, of subdivision (a) by the end of the first full year of funding.

(2) Be at least two-thirds of the way toward meeting each of the program requirements specified in paragraphs (1) to (5), inclusive, of subdivision (a) by the end of the second full year of funding, and achieve full implementation by the end of the third full year and for each year thereafter.

(3) Have provided professional development to at least one-third of teachers and instructional paraprofessionals in the school annually.

(4) Meet all of the requirements of the settlement agreement in Williams v. State of California (Case Number CGC-00-312236 of the Superior Court for the County of San Francisco), including, among other things, the requirements regarding teachers, instructional materials, and school facilities, by the end of the first full year of funding, and in each year of funding thereafter.

(c) (1) If a county superintendent of schools determines that a funded school has not substantially met the requirements of subdivision (b) after the first or second full year of funding, or any alternative program requirements approved under Section **2055**.760, he or she shall notify the Superintendent. If all of the interim and final requirements are not met by the end of any subsequent school year, the Superintendent shall terminate funding for that school.

(2) If the Superintendent terminates funding under this subdivision, the Superintendent shall provide advance notice to the district that is sufficient to allow the district a reasonable amount of time to make staff and other cost adjustments necessitated by the termination. The Superintendent shall provide the district with funds sufficient to cover the staff and other cost adjustments.

(d) A school district or chartering authority that includes a participating school or schools for which funding is terminated pursuant to subdivision (c) may appeal that action to the state board. The state board shall order the reinstatement of funding if, on appeal, the school district or chartering authority demonstrates that the data upon which the county superintendent of schools relied is in error and that the school in question can fully demonstrate its compliance with the applicable requirements.

Waiver Number: 18-4-2012 **Period of Request:** July 1, 2012, to June 30, 2014
Period Recommended: July 1, 2012, to June 29, 2014
Juniper School **CDS Code:** 45 70110 6050488
Redding Elementary School District

Local Educational Agency Request:

Redding Elementary School District (ESD) is a rural school district located in Shasta County and has a student population of approximately 3,380 students. Juniper School has a student population of approximately 232 students in kindergarten and grades one through eight. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three (K–3), and 21.0 in grades four through eight.

Redding ESD states that Juniper School has experienced an increase in enrollment from the 2010–11 school year. The district states that it added an additional teacher at Juniper School during the 2011–12 school year and transferred students to other schools within the district to prevent exceeding QEIA class size targets. The district states that safety and financial implications have arisen as a result of transferring neighborhood students to other district schools; the safety of students is of concern because of the hazardous walking conditions due to highway and railroad crossings. The district states that there are financial implications because of reduced transportation funding and the additional costs incurred for busing transferred students to adjacent school sites.

Redding ESD requests a waiver of the QEIA CSR targets for K–3 at Juniper School for school year 2012–13 and 2013–14, and the establishment of an alternative CSR target of 22.0 on average in core classes in K–3 combined.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Redding ESD's request to increase its CSR target for K–3 at Juniper School.

The CDE recommends approval with the following conditions: (1) Applies only to K–3 classes at Juniper School for school years 2012–13 and 2013–14; (2) Juniper School increase enrollment to 22.0 per class on average in core classes in K–3 combined for school year 2012–13 and 2013–14; and (3) Within 30 days of approval of this waiver, Redding ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Juniper Schoolsite Council on February 24, 2012.

Supported by California Teachers Association and Redding Teachers Association, February 1, 2012.

Local Board Approval: April 17, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	5	7	0	1	1	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Redding School District	Maureen Lewis - Sr. Chief Accountant	mlewis@rsdnmp.org

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
5885 E. Bonnyview Rd Redding CA 96001	530-225-0011, ext 1221 Fax Number: 530-225-0401

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 07/01/12 To: 6/30/14	April 17, 2012	April 17, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740(a)(1)(A) Circle One: *EC* or *CCR*

   Topic of the waiver: QEIA CSR

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 1, 2012 - CTA

   Name of bargaining unit and representative(s) consulted: RTA President - Cheryl McKinley

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): CTA - support

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school __X_ Other: *(Please specify)* Posted at Education Center

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: February 24, 2012

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See attached

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See attached

8. Demographic Information:
Juniper School has a student population of 232 and is located in a rural setting in Shasta County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 17, 2012
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment to waiver: Item 6: Education code section to be waived: EC 52055.740(a)(1)(A)

EC 52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, ~~no more than 20 pupils per class,~~ as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

Attachment to waiver: Item 7: Desired outcome/rationale.

The Redding School District requests that a portion of Education Code (EC) Section 52055.740(a)(1)(A) regarding the K-3 class size reduction requirements under the Quality Education Investment Act (QEIA) be waived for Juniper School for 2012-14 academic years from Kindergarten and grades 1 to 3 (K-3), 20 pupils per class to an alternative target of 22 students in core classes in grades K-3 combined.

Despite statewide declining enrollment, Juniper School has increased by thirty- one students from the previous academic school year. The Redding School District added an additional teacher to reduce class sizes at Juniper School for the 2011-12 academic school year. Additionally, the District took the necessary steps to transfer neighboring students to other schools within the District to prevent exceeding QEIA class size targets.

Safety and financial implications have been challenging due to transferring neighborhood students to other District schools. The safety of the students is of concern because of hazardous walking conditions due to highway and railroad crossings. The financial implications fall upon reduced transportation funding and the additional costs incurred for busing transferred students to adjacent school sites.

The Redding School District applauds Juniper's administrator, teachers, staff, parents, and students in successfully meeting the content of the QEIA program. Juniper has followed QEIA's class size targets coupled with all other requirements of QEIA legislation: Teacher Experience Index, Highly Qualified Teachers, Professional Development, Williams Regulations, and Academic Performance Index growth targets (growth summary below):

Juniper School Academic Performance Index

2007-2008	2008-2009	2009-2010	2010-2011
661	785	797	820

The rationale for requesting 22 students in core classes in grades K-3 combined, allows for stable class sizes, fewer multiple combo classes and lessening the chance of turning away neighborhood students. Approval of this waiver will provide flexibility to enroll neighborhood children, reduce transportation expenditures and address safety concerns.

Waiver Number: 104-2-2012 **Period of Request:** July 1, 2010, to June 30, 2014
Period Recommended: July 1, 2010, to June 29, 2012
Hiram Johnson High School **CDS Code:** 34 67439 3434636
Sacramento City Unified School District

Local Educational Agency Request:

Sacramento City Unified School District (USD) is an urban school district located in Sacramento County and has a student population of approximately 47,896 students. Hiram Johnson High School (HS) has a student population of approximately 1,600 students in grades nine through twelve. Monitoring performed by the Sacramento County Office of Education indicates that the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) were not fully met by Hiram Johnson HS for school year 2010–11 and the district is asking for an alternative QEIA CSR target for school year 2012–13. The school's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science for grades nine through twelve are 17.6, 21.0, 20.6, and 17.8, respectively. Hiram Johnson HS also exceeded the QEIA class size cap of 27 students per classroom.

Sacramento City USD states that the lower class sizes have always been important and the strategy has contributed to the increased achievement and academic performance of all students. The district states that it has reached a point at which an increase in baseline targets is necessary to maintain the momentum that will help move Hiram Johnson HS out of Program Improvement status.

Sacramento City USD requests a waiver of the QEIA CSR targets for grades nine through twelve at Hiram Johnson HS for school year 2010–11 through 2013–14 and the establishment of an alternative CSR target of 22.0 on average in grades nine through twelve. The district is also requesting a waiver for exceeding the QEIA 27-student cap per core classroom CSR requirement for two Algebra 2 classes for school year 2010–11.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Sacramento City USD's request to increase its CSR target for grades nine through twelve and to waive the QEIA 27-student cap per core classroom CSR requirement for two Algebra 2 classes at Hiram Johnson HS.

The CDE recommends approval with the following conditions: (1) Applies only to grades nine through twelve classes at Hiram Johnson HS for the period July 1, 2010, through June 29, 2012; (2) Applies to two Algebra 2 classes at Hiram Johnson HS that exceeded the QEIA 27-student cap per core classroom CSR requirement for school year 2010–11; (3) Hiram Johnson increase to 22.0 the class size on average in core classes at the school level in grades nine through twelve, with no class exceeding 27 for the period July 1, 2010 through June 29, 2012; and (4) Within 30 days of approval of this waiver, Sacramento City USD must provide to the CDE a description, including

costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Hiram Johnson High Schoolsite Council on February 1, 2012.

Supported by Sacramento City Teachers Association, January 31, 2012.

Local Board Approval: February 16, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	4	6	7	4	3	9

Local educational agency:	Contact name and Title:	Contact e-mail:
Sacramento City Unified School District **Hiram Johnson High School**	**Mary Hardin Young, Area Asst. Supt** **Felisberto Cedros, Principal**	**mary-hardinyoung@scusd.e**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
5735 47th Avenue	**Sacramento**	**California**	**95824**	**916-643-9009** FAX Number: **916-643-2535**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2010 To: June 30, 2014**	**February 16, 2012**	**February 16, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **52055.740 (1.i) and 52055.740 (1.iii)** Circle One: ***EC*** or *CCR*

   Topic of the waiver: **QEIA – Class Size Reduction**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ **Not Applicable** and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **January 31, 2012**

   Name of bargaining unit and representative(s) consulted: **Sacramento City Teachers' Association**
   Scott Smith, President

   The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper X Notice posted at each school X Other: *(Please specify)* SCUSD Website and Main Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Hiram Johnson School Site Council
   Date the committee/council reviewed the waiver request: **February 1, 2012**

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:
(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i)or (ii), as follows:
(i) ~~At least five pupils fewer per classroom than was the average in 2006-07~~.
(ii) An average of 25 pupils per classroom.
(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the school site. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article ~~shall not have a class in~~ English language arts, reading, ~~mathematics~~, science, or history and social science in grades 4 to 12, inclusive, ~~with more than 27 pupils regardless of its average classroom size~~.

(4)~~Meet all the requirement of the settlement agreement in Williams v. State of California~~ (Case Number cGC-00-312236 of the Superior Court for the County of San Francisco), including, among other things, ~~the requirements regarding teachers~~, instruction materials, and school facilities, by the end of the first full year of funding, and in each year of funding thereafter.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See attached -

8. Demographic Information:
Hiram Johnson High School has a student population of approximately 1,600 and is located in an urban area in Sacramento County. The demographic makeup of the student population is approximately 33% Asian, 39% Hispanic, 13% African American, 10% White and 5% others. The community socioeconomic makeup is reflected in our student population with 32% English learners receiving EL services, 85% receiving free or reduced lunch, and 14% receiving special education services.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

7. Desired Outcome/Rationale

Sacramento Unified School District requests on behalf of Hiram Johnson High School a permanent QEIA target of 22:1 for grades 9 to 12, and a one-time waiver, for the 2010-11 school year, of class maximum of 27 students for two Algebra 2 classes and two teacher misassigments in the Williams Settlement Agreement. The approval of this waiver would allow Hiram Johnson to fiscally support and meet all of the QEIA component mandates for the time periods of July 1, 2010 to June 30, 2014. Hiram Johnson High School is a Title I school with approximately 85% of its students receiving free or reduced lunch, 32% receiving English Learners services, and 14% receiving special education services.

The fall of 2010-11 saw dramatic changes at Hiram Johnson High School. Because of the school's persistent low academic performance and physical decline, the school was designated a "Superintendent's Priority School". The school was assigned a new administrative team who found the school to be without an appropriate infrastructure and system of operation to support student learning, as well as an absence of teachers holding appropriate credentials. A master schedule was not in established, the curriculum and program were outdated and not aligned to the state or district standards. The current structure had segregated EL and Special Education students and was lacking discipline practices to support students to be successful.

CSR: Lower class sizes have always been important to SCUSD, and the strategy has contributed to the increased achievement and academic performance of all students. With four administrative changes in the past five years and 25% of the students moving in and/or out of the school during the school year, Hiram Johnson's ability to meet the Class Size Reduction (CSR) targets has been extremely challenging. Changes in the state's CSR funding to districts have also impacted the site's ability to maintain smaller class sizes. By creatively exhausting all flexible funding sources, Hiram Johnson has managed to successfully staff CSR targets for the past three years. We have now reached a point at which an increase of our baseline targets is necessary to maintain the momentum that will help move Hiram Johnson High School out of Program Improvement status. Approval of this waiver to establish new class sizes of 22:1 in the 9th through 12th grades would allow students to continue to benefit from small class sizes and to receive high levels of instruction and maintain the achievement growth that the school experienced during the last year.

In addition, Hiram Johnson High School experienced another difficult staffing issue during the 2010-2011 school year with five teachers leaving their positions mid-year for various reasons. While the administrative team was able to cover the other teacher vacancies, they searched unsuccessfully to fill the two math positions that were left vacant. It became necessary to dissolve their sections in order for the students to receive instruction from the remaining skilled math teachers. Approval of a permanent CSR target of 22:1 for grades 9 to 12, and to waive the class size maximum of 27 in two Algebra II classes, for 2010-11 only, will permit Hiram Johnson High School to maintain and to continue to receive QEIA funding for the 2012-2014.

Williams Settlement Agreement: Due to lack of qualified certificated staff, Hiram Johnson High School could not find teachers with the appropriate credentials to teach one elective course of Yearbook and one of Robotics. Having the most experienced teachers with the appropriate credential has always been an important hiring factor in SCUSD, and the district understands how that practice has positively contributed to the increased academic success of all students. When Hiram Johnson was designated as one of SCUSD's "Superintendent's Priority Schools", the most critical personnel task was to secure HQT teachers to teach all core subjects, which the team accomplished. However, they could not find qualified staff with the appropriate credential to teach the one section of Yearbook and one section of Robotics. This situation was corrected for the 2011-12 school year. Waiving the two sections of the Williams Settlement assignments, from the 2010-11 school year only, will allow Hiram Johnson High School to maintain and continue to receive QEIA funding.

Hiram Johnson has met the spirit of the law and has improved the quality of academic instruction and the level of student achievement significantly in the past year. Once named a "Superintendent's Priority School" the new administration initiated new instructional initiatives and restructured the school policies, operations and procedures. The Highly Qualified Teachers received at least 40 hours of targeted professional development and collaborative planning time to improve their curriculum knowledge and instructional skills, and their understanding of using data to guide instruction. The effort led to an outstanding academic, behavior and attendance improvement. The school API almost doubled its past ten year's API gains in one year with 60 API point gain to 671 in 2011. The gain was one of the highest in the Sacramento County. The increased attendance rate and decreased suspension rate were among the most improved in the District. The table below paints a much clearer picture of the amount of progress Hiram Johnson had made with its QEIA funding in 2010.

2011 Hiram Johnson Growth API Report

	Number of Students Included	**2011 Growth**	**2010 Base**	**2010-11 Growth Target**	**2010-11 Growth**	**Met Growth Target**
School Wide	1130	671	612	9	59	Yes
Black or African American	118	559	484	16	75	Yes
Asian	361	722	695	5	27	Yes
Hispanic or Latino	455	651	577	11	74	Yes
White	102	717	642	8	75	Yes
Socioeconomically Disadv	986	668	615	9	53	Yes
English Learners	599	656	596	10	60	Yes
Students with Disabilities	145	441	396	20	45	Yes

California Department of Education, Analysis, Measurement and Accountability Reporting Division, November 29, 2011.

Approval of this waiver for Hiram Johnson High School will result in the school meeting the intent of the QEIA program while continuing to make strong academic gains. During this time of economic uncertainty, this program is essential in order to continue to maintain small class size, hire the most qualified staff and provide the necessary professional development to ensure that students are taught by the most qualified and skilled staff. Based on the 2010-2011 academic, behavior and attendance data, there is no doubt that QEIA funding made the difference in the gains and improvement at Hiram Johnson. The school needs QEIA funding to sustain the momentum and progress that they have made this past year, and continue to provide the best services to the students.

Waiver Number: 29-4-2012 **Period of Request:** July 1, 2012, to June 30, 2013
Period Recommended: July 1, 2012, to June 30, 2013
Bridge Street Elementary School **CDS Code:** 51 71464 6053367
Yuba City Unified School District

Local Educational Agency Request:

Yuba City Unified School District (USD) is located in Sutter County and has a student population of approximately 13,228 students. Bridge Street Elementary School (ES) has a student population of approximately 461 students in kindergarten and grades one through five. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2012–13. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three (K–3), 25.0 in grade four, and 18.3 in grade five.

Yuba City USD states that student enrollment in grade five during the CSR baseline year at Bridge Street ES was unusually low, creating a significant burden to meet target. The district states that fluctuating enrollment with a general increase in kindergarten enrollment has required adding teachers to meet the CSR requirement. The district further states that the overall increase in staffing required to comply with QEIA ratios has placed a burden on the QEIA budget.

Yuba City USD requests a waiver of the QEIA CSR targets for K–3 and grade five at Bridge Street ES for school year 2012–13 and the establishment of alternative CSR targets of 23.0 on average in core classes in K–3 and 25.0 on average in core classes in grade five.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Yuba City USD's request to increase its CSR target for K–3 and grade five at Bridge Street ES.

The CDE recommends approval with the following conditions: (1) Applies only to K–3 and grade five classes at Bridge Street ES for school year 2012–13; (2) Bridge Street ES increase enrollment to 23.0 on average in core classes in K–3 and 25.0 on average in core classes in grade five for school year 2012–13; and (3) Within 30 days of approval of this waiver, Yuba City USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Bridge Street Elementary Schoolsite Council on April 19, 2012.

Neutral Position by Yuba City Teachers Association, April 4, 2012.

Local Board Approval: April 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
5	1	7	1	4	6	4

Local educational agency: Yuba City Unified School District on behalf of Bridge Street Elementary School	Contact name and Title: Doreen Osumi Assistant Superintendent	Contact person's e-mail address: dosumi@ycusd.k12.ca.us
Address: (City) (State) (ZIP) 750 Palora Avenue Yuba City California 95991		Phone (and extension, if necessary): 530-822-7611 Fax Number: 530-671-2454
Period of request: (month/day/year) From: 07-01-2012 To: 06-30-2013	Local board approval date: (Required) April 24, 2012	Date of public hearing: (Required) April 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a)(1) Circle One: *EC* or *CCR*

   Topic of the waiver: QEIA Class Size Reduction Requirements

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _ X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 4, 2012

   Name of bargaining unit and representative(s) consulted: Dina Luetgens, YCTA President

   The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* District Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: April 19, 2012

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 52055.740 (a)(1)
(1) Meet all of the following class size requirements:
~~(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program~~
(B) For self-contained classrooms in grades 4-8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
~~(i) At least five pupils fewer per classroom that was the average in 2006-2007~~
(ii) An average of 25 pupils per classroom

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Bridge Street Elementary School has seen many positive changes due to its involvement in the QEIA Program. Funding has allowed the school to add energetic, experienced, and innovative staff members who have helped to create a positive academic learning environment. As a result, the school has seen a significant increase in student achievement and exited Program Improvement in 2009-2010 as a Program Improvement year 5 school.

Bridge Street Elementary School has met all Class Size Reduction targets since 2006-2007. However, the number of students in 5th grade during the baseline year used for establishing QEIA CSR was unusually low which created a CSR target of 18.3. This has created a significant burden on Bridge Street to meet such a low target. In addition, Bridge Street has had fluctuating enrollment with a general increase at kindergarten which has required adding teachers to meet the 20:1 CSR. The overall increase in staffing required to comply with QEIA ratios has placed a burden on the QEIA budget that results in this waiver request. (See Attached Page)

8. Demographic Information:

(*District/school/program) Bridge Street Elementary School* has a student population of ___461____ and is located in a __small city (*urban, rural, or small city etc.)* in _Sutter_ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 7 continued:

A three year staffing projection for 2012-2015 indicates that Bridge Street Elementary School will be unable to fund the necessary teachers to meet the CSR requirements. Therefore, the QEIA program is no longer sustainable. Yuba City Unified School District on behalf of Bridge Street Elementary School is requesting a CSR waiver, which would allow for an average class size ration of 23:1 in grades kindergarten through 3rd grades and 25:1 for grades 4th and 5th.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-31

ITEM #W-31

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Madera Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding Highly Qualified Teachers and/or the *Williams* case settlement requirements under the Quality Education Investment Act. Waiver Number: 51-4-2012	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

See Attachments 1 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to waive the Highly Qualified Teachers (HQT) target and the *Williams* case settlement requirements as defined by the Quality Education Investment Act (QEIA) to the State Board of Education (SBE). All HQT and *Williams* case settlement requirement waivers previously presented have been approved by the SBE.

SUMMARY OF KEY ISSUES

Quality Education Investment Act

Per California *Education Code* (*EC*) Section 52055.710(c) and (d), it is the intent of the Legislature that QEIA funding accomplish the following:

(c) Improve the quality of academic instruction and the level of pupil achievement in schools in which pupils have high levels of poverty and complex educational needs.

(d) Develop exemplary school district and school practices that will create the working conditions and classroom learning environments that will attract and retain well qualified teachers, administrators, and other staff.

To assist local educational agencies (LEAs) in properly implementing requirements to meet statutory timelines, schools participating in the QEIA program were monitored by their county offices of education for compliance with program requirements for the first

time at the end of the 2008–09 school year. At that time, QEIA schools were required to demonstrate one-third progress toward full implementation of program requirements. At the end of the 2009–10 school year, QEIA schools were required to demonstrate two-thirds progress toward full program implementation. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

Highly Qualified Teachers

California *EC* Section 52055.740(a)(3) requires, in QEIA funded schools, that by the end of the 2010–11 school year and each year after, each teacher, including intern teachers, be highly qualified in accordance with the federal No Child Left Behind Act (NCLB) of 2001.

The federal NCLB statutes require that all elementary, middle and high school teachers assigned to teach core academic subjects be highly qualified. In California, the NCLB Core Academic Subjects are defined as:

- English/language arts/reading (including reading intervention and California High School Exit Exam [CAHSEE] English classes)
- Mathematics (including math intervention and CAHSEE-math classes)
- Biological sciences; chemistry; geosciences; and physics
- Social science (history, government, economics, geography)
- Foreign languages (specific)
- Drama/theater; visual arts (including dance); and music

Meeting the federal requirement for HQT is determined based on the number of classes in core academic subjects taught by highly qualified teachers as reported in the California Longitudinal Pupil Achievement Data System (CALPADS).

***Williams* Case Settlement Requirements**

California *EC* Section 52055.740(b)(4) requires QEIA funded schools, by the end of the 2008–09 school year and each year thereafter, to meet all of the requirements of the settlement agreement in *Eliezer Williams, et al., vs. State of California, et al.*

These requirements include:

- Ensuring students have sufficient instructional materials.
- Ensuring school facilities pose no emergency or urgent threat to health and safety.

- Ensuring there are no teacher vacancies or misassignments.

If an LEA requests a waiver of the HQT or *Williams* case settlement requirements, the CDE reviews a range of information regarding the unique circumstances of the school and the district to formulate a recommendation to the SBE.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the HQT targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Madera Unified School District Request for a Quality Education Investment Act Highly Qualified Teachers Waiver 51-4-2012 (1 page)

Attachment 2: Madera Unified School District General Waiver Request 51-4-2012 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number: 51-4-2012 **Period of Request:** July 1, 2010, to June 30, 2011
Period Recommended: July 1, 2010, to June 30, 2011
Martin Luther King Jr. Middle School **CDS Code:** 20 65243 6112973
Madera Unified School District

Local Educational Agency Request:

Madera Unified School District (USD) is an urban school district located in Madera County with a student population of approximately 19,936 students. Martin Luther King Jr. Middle School (MS) serves 760 students in grades seven and eight. Monitoring performed by the Madera County Office of Education indicates that the Highly Qualified Teacher (HQT) requirements of the Quality Education Investment Act (QEIA) were not fully met by Martin Luther King Jr. MS for the 2010–11 school year.

Madera USD states that one out of forty teachers at Martin Luther King Jr. MS was not HQT compliant in school year 2010–11. The district states that the site leadership team at the school was very involved and actively recruited staff that met the credential requirements of NCLB and, although there was improvement, missed full HQT compliance. The district states that it is in full compliance with QEIA HQT requirements for school year 2011–12.

Madera USD is requesting that the HQT requirements for one teacher at Martin Luther King Jr. MS be waived for school year 2010–11.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Madera USD's request that the HQT requirements for teachers at Martin Luther King Jr. MS be waived for school year 2010–11.

The CDE recommends approval with the following conditions: (1) Applies only to one teacher at Martin Luther King Jr. MS for school year 2010–11; (2) Martin Luther King Jr. MS meet the HQT requirements in years 2011–12 and all subsequent years the district receives QEIA funds; and (3) Within 30 days of approval of this waiver, Madera USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the HQT requirements.

Reviewed by District English Language Advisory Committee and District Advisory Committee on March 8, 2012.

Reviewed by Martin Luther King Jr. Middle School Site Council on March 29, 2012.

Supported by Madera Unified Teachers Association, April 11, 2012.

Local Board Approval: April 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	1	1	2	9	7	3

Local educational agency: **Madera Unified School District**	Contact name and Title: **Deborah Wood, Associate Superintendent of Educational Services**	Contact person's e-mail address: **wood_d@madera.k12.ca.us**
Address: (City) (State) (ZIP) **1902 Howard Road Madera California 93637**		Phone (and extension, if necessary): **559.675.4500 ext. 223** Fax Number: **559.675.4528**
Period of request: (month/day/year) From: **7/1/2010 To: 6/30/2011**	Local board approval date: (Required) **April 24, 2012**	Date of public hearing: (Required) **April 24, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of Education Code 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) (3) Circle One: EC or CCR
   Topic of the waiver: Highly Qualified Teachers (HQT) Quality Education Investment Act (QEIA)

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**x**_ Yes If yes, please complete required information below:

   - Bargaining unit(s) consulted on date(s): **April 11, 2012**

   Name of bargaining unit and representative(s) consulted: **Kathy Horn, Madera Unified Teacher's Association Pres.**

   The position(s) of the bargaining unit(s): __ Neutral _**x**_ Support __ Oppose (Please specify why)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   ___ Notice in a newspaper __x_ Notice posted at each school _x__ Other: (Please specify)
   Notice posted at District Office and Madera Unified Teacher Association office.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: **DELAC and DAC committee approved the request to submit a waiver request for Martin Luther King on Thursday, March 8, 2012. Martin Luther King SSC was consulted on Thursday, March 29, 2012.**

   Were there any objection(s)? No _**x**__ Yes ___ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. Education Code or California Code of Regulations section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EC 52055.740 (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:
~~(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. SEC. 6301 et seq.).~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

By 2010-2011, and each year after, QEIA funded schools must ensure that each teacher be highly qualified in accordance with the federal No Child Left Behind Act of 2001(NCLB). The federal NCLB statutes require that all elementary, middle and high school teachers assigned to teach core academic subjects are highly qualified. Meeting the federal requirement for highly qualified teachers is based on the number of classes taught by highly qualified teachers as reported on the ESEA (NCLB) Teacher Requirements of the school's Consolidated application (Part 1).

The site leadership team at Martin Luther King was very involved and actively recruiting staff that met the credential requirements of NCLB. There was some loss of teachers due to the temporary nature of the QEIA funding source in some specific subject matters however, a review of the numbers from 2006 show a clear and consistent pattern of improvement towards that goal. Beginning in 2006 MLK began with only 86% being HQT to the target of 100% starting the 2011-2012 fiscal year.

Martin Luther King Middle School is seeking a waiver of this requirement for the 2010-2011 school year.

8. Demographic Information:
Martin Luther King has a student population of 760 students and is located in an urban area in Madera County. MLK has a exceptionally high number of students who qualify for Free/Reduced lunch program (88%) and a English Learner population of 31%.

Is this waiver associated with an apportionment related audit penalty? (per EC 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of CPM finding)

District or County Certification – I hereby certify that the information provided on this application is correct and complete.

Signature of Superintendent or Designee:	Title: **Deborah Wood, Associate Superintendent of Educational Services**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (type or print):	Staff Signature:	Date:
Unit Manager (type or print):	Unit Manager Signature:	Date:
Division Director (type or print):	Division Director Signature:	Date:
Deputy (type or print):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-32

ITEM #W-32

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Farmersville Unified School District** to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Farmersville Junior High School to follow its grade six class that will be transferring to Freedom Elementary School. Waiver Number: 149-2-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial because its approval would not adequately address the educational needs of pupils as described in California *Education Code* (*EC*) Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The CDE Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the prohibition against funds following students as defined by the Quality Education Investment Act (QEIA). These waivers were ultimately approved by the SBE. This is the first time a district has asked for a waiver to allow QEIA funds to follow a single grade from a QEIA school to a non-QEIA school.

This is the second time the SBE has heard this request. The SBE did not take action on this waiver request when it was presented at its May 2012 meeting.

If the SBE fails to take action on this waiver request at the July 2012 meeting, the request is deemed approved for one year pursuant to *EC* Section 33052 and there will be no conditions on the approval.

SUMMARY OF KEY ISSUES

Farmersville Unified School District (USD) states that, due to severe overcrowding at Farmersville Junior High School (JHS), the district is adding an additional classroom wing in fall 2012 to Freedom Elementary School (ES). The entire grade six class will be transferred from Farmersville JHS to Freedom ES.

Both schools originally received QEIA funding; however, Freedom ES did not exceed

the three-year Academic Performance Index (API) growth requirement and will exit the program at the end of the 2011–12 school year. This termination was affirmed by the SBE's decision to deny a waiver request on behalf of Freedom ES in January 2012.

Transferring a grade six class to a non-QEIA school presents many logistical issues, despite the district's assurance that these funds will be spent only on these students and not be comingled with the grades four and five classes at Freedom ES. For example, the request seeks to return QEIA funding to a school that was terminated from the program in 2011–12 for failure to meet its API target.

Additionally, approval of the waiver poses challenges to calculating QEIA targets for grade six, which would no longer be attached to a QEIA school; specifically, it is not clear how Farmersville USD proposes to calculate the QEIA school's API or Teacher Experience Index with one of the grades attached to a non-QEIA school.

The QEIA Program was designed to be a school reform initiative, not an individual student intervention. QEIA program requirements preclude new schools from participating in the program for two reasons. The first is the fact that a large number of schools that originally applied for participation were excluded from the program due to funding limitations. More importantly, the program has specific timelines for participation and must meet targets in several areas, including student academic growth, teacher experience ratio, and class size adjustments. Moving an entire grade six class to another school changes the configuration and chemistry of both schools and dilutes the QEIA program intent. Schools that do not meet program requirements stand to lose future QEIA funding.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Farmersville Junior High School has a student population of 611 and is located in a rural area in Tulare County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2012, to June 30, 2015

Local board approval date(s): February 28, 2012

Public hearing held on date(s): February 28, 2012

Bargaining unit(s) consulted on date(s): February 16, 2012

Name of bargaining unit/representative(s) consulted: Farmersville Teachers Association, Melinda Urton, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other: District Office, Post Office, City Hall

Advisory committee(s) consulted: Farmersville USD Superintendent's Cabinet and Farmersville Junior High Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 23, 2012

FISCAL ANALYSIS (AS APPROPRIATE)

Denial of this waiver will disallow QEIA funds from being distributed to the grade six class being relocated to Freedom Elementary School. Farmersville Junior High School will continue to receive QEIA funding for students in grades seven and eight. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Farmersville Unified School District General Waiver Request 149-2-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09 http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	5	3	2	5

Local educational agency: **Farmersville Unified School District**	Contact name and Title: **Grant Schimelpfening, CBO**	Contact person's e-mail address: **gschimel@farmersville.K12.ca.us**
Address: (City) (State) (ZIP) 571 E. Citrus Farmersville CA 93223		Phone (and extension, if necessary): (559) 592-2010 Ext. 1108 Fax Number: (559) 592-2203
Period of request: (month/day/year) From: 7/1/2012 To: 6/30/2015	Local board approval date: (Required) February 28, 2012	Date of public hearing: (Required) February 28, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **52055.750 (a) (9)** Circle One: *EC* or *CCR*

   Topic of the waiver: **QEIA Funds Follow the Child – Special Exception for Site Reconfiguration**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **Not Applicable** and date of SBE Approval_____ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No XX Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 16, 2012

   Name of bargaining unit and representative(s) consulted: **Farmersville Teachers' Association, Melinda Urton, President**

   The position(s) of the bargaining unit(s): __ Neutral **XX** Support __ Oppose (*Please specify why*)

   Comments (if appropriate): **The Bargaining Unit members listed above, as well as our School Site Council unanimously agreed in separate meetings to support this waiver request.**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper XX Notice posted at each school XX Other: District Office, Post Office, City Hall

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Bargaining members aforementioned on this waiver, Farmersville USD Superintendent's Cabinet, and Farmersville Junior High School Site Council

   Date the committee/council reviewed the waiver request: February 23, 2012

   Were there any objection(s)? No XX Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.750 (a)(9) Ensure that the funds received on behalf of funded schools are expended on that school, except that during the first partial year of funding districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the district.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Farmersville Unified School District has the following school sites receiving funding for QEIA in 2011-12:

Snowden Elementary (Grades 2-3)
Freedom Elementary (Grades 4-5)
Farmersville Junior High (Grades 6-8)

Due to severe overcrowding at the Farmersville Junior High School, several years ago the District applied for funding to add an additional classroom wing at the Freedom Elementary (4-5) campus in order to move the 6th grade class from Farmersville Junior High to Freedom Elementary. However, due to cash flow issues at the State level, funding was held up for several years. Finally, at the December State Allocation Board meeting, the funds were released and the District is able to move forward with this project which is expected to be completed after October of 2012; other projects are also in the works and were simultaneously funded, one of which is the Farmersville Junior High School.

The District also applied for and has received funding for major modernization at the Junior High School campus, which can only be done if the 6th grade class is moved to another campus so the classrooms can be vacated and modernized.

Unexpectedly, due to not meeting the API targets in 2010-11, Freedom Elementary is exiting the QEIA program and will not receive funding in 2012-13. The overcrowding issue at the Junior High still persists. However, as the QEIA language is currently written, moving the 6th grade class from the Junior High School to Freedom Elementary would result in a loss of QEIA funds for that 6th grade class. Any additional loss in funding would result in additional reductions in teaching staff. The Junior High's API has soared to 701 since participating in QEIA and has met all other program requirements.

This waiver is requesting that QEIA funds follow the 6th grade class from the Junior High School to Freedom Elementary School with assurances by the District that these funds will be spent on these students only and will not be comingled with 4th or 5th grade classes at Freedom Elementary. In fact, the District is prepared to have a Junior High administrator oversee the 6th grade class while the Junior High is in QEIA and the 6th grade is housed at Freedom Elementary.

Approval of this waiver would allow the District to ease the overcrowding and update facilities at the Junior High School, while also avoiding additional unnecessary reductions in staff due to additional loss of funds.

8. Demographic Information:
Farmersville Junior High School has a student population of 611 and is located in a rural area in Tulare County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-33

ITEM #W-33

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Santa Rita Union Elementary School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act. Waiver Number: 33-4-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils per California *Education Code (EC)* Section 33051(a)(1).

See Attachment 1 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The CDE Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA). Over 90 percent of CSR waiver requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied.

SUMMARY OF KEY ISSUES

Class Size Reduction

Schools participating in the QEIA Program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Santa Rita Union Elementary School District Request 33-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 2: Santa Rita Union Elementary School District General Waiver Request 33-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number: 33-4-2012 **Period of Request:** July 1, 2011, to June 30, 2012
Period Recommended: Denial

Santa Rita Elementary School **CDS Code:** 27 66191 6026660
Santa Rita Union Elementary School District

Local Educational Agency Request:

Santa Rita Union Elementary School District (UESD) is located in Monterey County and has a student population of approximately 3,106 students. Santa Rita Elementary School (ES) has a student population of approximately 609 students in kindergarten and grades one through five. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 and is asking for an alternative QEIA CSR target for school year 2011–12. The district's current QEIA CSR targets are 20.44 for the core classes of English, mathematics, history-social science, and science in kindergarten and grades one through three, and 25.0 in grades four and five.

Santa Rita UESD states that it has experienced an exorbitant loss in revenue of over 20 percent, and this is forcing the district to maximize class sizes and reduce certificated positions.

Santa Rita UESD requests a waiver of the QEIA CSR targets for kindergarten and grades one through five at Santa Rita ES for school year 2011–12 and the establishment of an alternative average CSR target of 33.0 students per class in core classes in kindergarten and grades one through three and 33.0 students in core classes in grades four and five.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils per California *Education Code* Section 33051(a)(1).

Specifically, the CDE recommends denial of this request based on four factors: (1) QEIA funding is expected to be used to hire teachers to significantly reduce class sizes for students at QEIA schools; (2) QEIA legislation requires an average classroom size of 25 students or lower for core subjects, with no more than 27 students per classroom regardless of the average classroom size; (3) significant increases in classroom sizes will potentially impact academic performance in the near future, causing student performance to suffer; and (4) approximately 75 percent of all QEIA schools have been successful in meeting QEIA program requirements and staying within the parameters of the program.

Reviewed by Santa Rita Union School District Leadership Team on March 21, 2012.

Neutral Position taken by Santa Rita Teachers Association and Supported by California School Employees Association, March 13, 2012.

Local Board Approval: April 17, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	6	6	1	9	1

Local educational agency: **Santa Rita Union School District**	Contact name and Title: **Mike Brusa, Superintendent**	Contact person's e-mail address:**mbrusa@santaritaschools.org**
Address: (City) (State) (ZIP) 57 Russell Road, Salinas, CA 93906		Phone (and extension, if necessary): 831-443-7200 ext. 203 Fax Number: 831-442-1729
Period of request: (month/day/year) **From: 7/1/2011 To: 06/30/2012**	Local board approval date: (Required) **April 17, 2012**	Date of public hearing: (Required) **April 17, 2012**

LEGAL CRITERIA

1. Under the general waiver authority of Education Code 33050-33053, the particular Education Code or California Code of Regulations section(s) to be waived (number): Circle One: EC or CCR

   Topic of the waiver: **QEIA Class Size Reduction** **EC 52055.740**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____and date of SBE Approval _____Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 13, 2012

   Name of bargaining unit and representative(s) consulted:
   Santa Rita Teachers Association **Heather Howell** **Neutral**
   California School Employees Association **Priscilla Luna** **Support**
   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (Please specify why)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper X Notice posted at each school ___ Other: (Please specify)

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Santa Rita Union School District Leadership Team
   Date the committee/council reviewed the waiver request: **March 21, 2012**

   Were there any objection(s)? No _X__ Yes ___ (If there were objections please specify)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met
all of the following program requirements by the school by the end of the third full year of funding:
(1) Meet all of the following class size requirements:
~~(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).~~
(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
~~(i) At least five pupils fewer per classroom than was the average in 2006-07.~~
(ii) An average of 25 pupils per classroom.
(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of Self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this Subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.
(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i)
or (ii), as follows:
(i) At least five pupils fewer per classroom than was the average in 2006-07.
(ii) An average of 25 pupils per classroom.
(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of Subject-specific classrooms in that grade at the school site. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4 to 12, inclusive, with more than 27 pupils regardless of its average classroom size.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District, as may other district in the State of California has been experiencing an exorbitant los in revenue of over 20%. This loss in revenue is forcing Districts to maximize class sizes and reduce certificated positions as these positions constitute the majority of the District's budget.

The District wishes to increase the class sizes as follows:
1. Grades Kindergarten and grades 1 to 3, from 20.44 students to 33 students.
2. Grades 4th through 5th from 25 to 33 students.

8. Demographic Information:
The Santa Rita Union School District has a student population of 3106 and is located in the outskirts of Salinas, in the Monterey County.

Is this waiver associated with an apportionment related audit penalty? (per EC 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of CPM finding)

District or County Certification – I hereby certify that the information provided on this application is correct and complete.

Signature of Superintendent or Designee:	Title:	Date:
Mike Brusa	**Superintendent**	
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (type or print):	Staff Signature:	Date:
Unit Manager (type or print):	Unit Manager Signature:	Date:

Division Director (type or print):	Division Director Signature:	Date:
Deputy (type or print):	Deputy Signature:	Date:

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM W-34

ITEM #W-34

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act. Waiver Number: Pasadena Unified 47-4-2012 Pasadena Unified 48-4-2012 Yuba City Unified 28-4-2012	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

See Attachments 1, 3, and 5 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California Department of Education (CDE) Waiver Office has previously presented requests to the State Board of Education (SBE) to waive the class size reduction (CSR) target as defined by the Quality Education Investment Act (QEIA). Over 90 percent of CSR waivers requests previously presented have requested adjusted class size averages of 25.0 or lower, and have indicated a commitment to meeting that target for the life of the grant; these have been approved by the SBE. A small number of CSR waiver requests have proposed CSR targets above 25.0; these have been denied.

SUMMARY OF KEY ISSUES

Class Size Reduction

Schools participating in the QEIA Program were monitored by their county offices of education for compliance with program requirements for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year. QEIA schools were required to demonstrate full compliance with all program requirements at the end of the 2010–11 school year.

QEIA schools are required to reduce class sizes by 5 students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per

classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

QEIA schools are required to not increase any other (non-core) class sizes in the school above the size used during the 2005–06 school year.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the *Government Code*, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Pasadena Unified School District Request 47-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 2: Pasadena Unified School District General Waiver Request 47-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 3: Pasadena Unified School District Request 48-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 4: Pasadena Unified School District General Waiver Request 48-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Attachment 5: Yuba City Unified School District Request 28-4-2012 for a Quality Education Investment Act Class Size Reduction Waiver (1 Page)

Attachment 6: Yuba City Unified School District General Waiver Request 28-4-2012 (3 Pages) (Original waiver request is signed and on file in the Waiver Office.)

Waiver Number: 47-4-2012 **Period of Request:** July 1, 2012, to June 30, 2014
Period Recommended: July 1, 2012, to June 29, 2014
Altadena Elementary School **CDS Code:** 19 64881 6021505
Pasadena Unified School District

Local Educational Agency Request:

Pasadena Unified School District (USD) is located in Los Angeles County and has a student population of approximately 18,652 students. Altadena Elementary School (ES) has a student population of approximately 407 students in kindergarten and grades one through five. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three (K–3), and 25.0 in grades four and five.

Pasadena USD states that, due to the ongoing and severe fiscal crisis the State is experiencing, it can no longer continue to fund the extremely low class sizes required by QEIA. The district states that it has lost about 18 percent, or $19 million, in annual revenue limit funding. The district further states that the average teacher to student ratio for all of its other K–3 classes is 26.3:1.

Pasadena USD requests a waiver of the QEIA CSR targets for K–3 at Altadena ES for school years 2012–13 and 2013–14 and the establishment of an alternative CSR target of 25.0 per class in core classes in K–3.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Pasadena USD's request to increase its CSR target for K–3 at Altadena ES.

The CDE recommends approval with the following conditions: (1) Applies only to K–3 classes at Altadena ES for school years 2012–13 and 2013–14; (2) Altadena ES increase enrollment to 25.0 per class in core classes in K–3 for school year 2012–13 and 2013–14; and (3) Within 30 days of approval of this waiver, Pasadena USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Altadena Elementary Schoolsite Council on April 17, 2012.

Opposed by United Teachers of Pasadena, April 10, 2012.

Local Board Approval: April 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	8	8	1

Local educational agency: Pasadena Unified School District Altadena Elementary School	Contact name and Title: Dierk Esseln, Budget Supervisor	Contact person's e-mail address: esseln.dierk@pusd.us
Address: (City) (State) (ZIP) 351 South Hudson Avenue, Pasadena, CA 91109		Phone (and extension, if necessary): 626-396-3600-88147 Fax Number: 626-796-8613
Period of request: (month/day/year) From: 07/01/2012 To: 06/30/2014	Local board approval date: (Required) April 24, 2012	Date of public hearing: (Required) April 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or (*CCR*)
52055.740(a)

   Topic of the waiver: QEIA Class Size Reduction

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Tuesday April 10, 2012

   Name of bargaining unit and representative(s) consulted: United Teachers of Pasadena, Alvin Nash, President

   The position(s) of the bargaining unit(s): __ Neutral __ Support _X_ Oppose (*Please specify why*)

   Comments (if appropriate):

   The position of UTP is "Oppose" regarding the District's General Waiver Request for QEIA Class Size Reduction for the following reasons:

   - Increasing class size at the two QEIA schools in PUSD will not help close the budget deficit.
   - All research shows that smaller class sizes improve student learning, especially for ethnic minority and low-income students.
   - Giving the District so-called "flexibility" is really less accountability over school funding and means no guarantees that the money will actually be spent in the classroom where it is needed most.
   - California's academic standards are the highest in the country. Boosting class size will make it more difficult to achieve those standards.
   - The two QEIA schools in PUSD have effectively implemented Class Size Reduction for several years. If Class Size Reduction is eliminated, these schools will never get it back.
   - Class sizes in PUSD are already too large. Do not make matters worse!

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(City Public Libraries)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Tuesday, April 17, 2012

Were there any objection(s)? No ___ Yes _X_ (*If there were objections please specify)*

See Attached School Site Council Minutes.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Pasadena Unified School District (PUSD) requests the State Board of Education to waive the Education Code sections listed above that have been crossed out.

Due to the ongoing and severe fiscal crisis that the State of California is suffering, PUSD can no longer reasonably continue to fund the extremely low class sizes required by the Quality Education Investment Act (QEIA). Since the implementation of the QEIA Program, PUSD has lost about 18%, or $ 19 million in annual Revenue Limit funding.

Currently, Altadena Elementary School has required class size ratios of 20.0 for grades Kindergarten to three. The average teacher to student ratio for all other elementary school classes, grades Kindergarten to three, in PUSD, is 26.30.

Altadena Elementary School has met all funding requirements during the first three years, including teacher qualifications, class size, and API growth. In fact, Altadena Elementary School has far exceeded the API Growth targets. See the table below:

	2008-2009	2009-2010	2010-2011	Average
Growth	46	-6	63	34.3
Target	5	5	5	5

Additionally, we anticipate the school will once again meet all requirements for the 2011-2012 school year.

8. Demographic Information:
Pasadena Unified School district has a student population of 18,652 and is located in an urban area in Los Angeles County. Altadena Elementary School has a student population of 407.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Chief Finance Officer	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 48-4-2012 **Period of Request:** July 1, 2012, to June 30, 2014
Period Recommended: July 1, 2012, to June 29, 2014
Washington Middle School **CDS Code:** 19 64881 6021752
Pasadena Unified School District

Local Educational Agency Request:

Pasadena Unified School District (USD) is located in Los Angeles County and has a student population of approximately 18,652 students. Washington Middle School (MS) has a student population of approximately 561 students in grades six through eight. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2012–13 and 2013–14. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 22.5 in grade six, 18.6 in grade seven, and 19.1 in grade eight.

Pasadena USD states that, due to the ongoing and severe fiscal crisis the State is experiencing, it can no longer continue to fund the extremely low class sizes required by QEIA. The district states that it has lost about 18 percent, or $19 million, in annual revenue limit funding. The district further states that the average teacher to student ratio for all of its other middle school classes is 33:1.

Pasadena USD requests a waiver of the QEIA CSR targets for grades six through eight at Washington MS for school years 2012–13 and 2013–14 and the establishment of an alternative CSR target of 25.0 on average in core classes in grades six through eight.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Pasadena USD's request to increase its CSR target for grades six through eight at Washington MS.

The CDE recommends approval with the following conditions: (1) Applies only to grade six through eight classes at Washington MS for school years 2012–13 and 2013–14; (2) Washington MS increase enrollment to 25.0 per class on average in core classes in grades six through eight for school year 2012–13 and 2013–14; and (3) Within 30 days of approval of this waiver, Pasadena USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Washington Middle Schoolsite Council on April 17, 2012.

Opposed by United Teachers of Pasadena, April 10, 2012.

Local Board Approval: April 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	8	8	1

Local educational agency: Pasadena Unified School District Washington Middle School	Contact name and Title: Dierk Esseln, Budget Supervisor	Contact person's e-mail address: esseln.dierk@pusd.us
Address: (City) (State) (ZIP) 351 South Hudson Avenue, Pasadena, CA 91109		Phone (and extension, if necessary): 626-396-3600-88147 Fax Number: 626-796-8613
Period of request: (month/day/year) From: 07/01/2012 To: 06/30/2014	Local board approval date: (Required) April 24, 2012	Date of public hearing: (Required) April 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*
52055.740(a)
Topic of the waiver: QEIA Class Size Reduction

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Tuesday April 10, 2012

Name of bargaining unit and representative(s) consulted: United Teachers of Pasadena, Alvin Nash, President

The position(s) of the bargaining unit(s): __ Neutral __ Support _X_ Oppose (*Please specify why*)

Comments (if appropriate):

The position of UTP is "Oppose" regarding the District's General Waiver Request for QEIA Class Size Reduction for the following reasons:

- Increasing class size at the two QEIA schools in PUSD will not help close the budget deficit.
- All research shows that smaller class sizes improve student learning, especially for ethnic minority and low-income students.
- Giving the District so-called "flexibility" is really less accountability over school funding and means no guarantees that the money will actually be spent in the classroom where it is needed most.
- California's academic standards are the highest in the country. Boosting class size will make it more difficult to achieve those standards.
- The two QEIA schools in PUSD have effectively implemented Class Size Reduction for several years. If Class Size Reduction is eliminated, these schools will never get it back.
- Class sizes in PUSD are already too large. Do not make matters worse!

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(City Public Libraries)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Tuesday, April 17, 2012

Were there any objection(s)? No ___ Yes _X_ (*If there were objections please specify)*

See Attached School Site Council Minutes.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) ~~At least five pupils fewer per classroom than was the average in 2006-07~~.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) ~~At least five pupils fewer per classroom than was the average in 2006-07~~.

(ii) An average of 25 pupils per classroom.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Pasadena Unified School District (PUSD) requests the State Board of Education to waive the Education Code sections listed above that have been crossed out.

Due to the ongoing and severe fiscal crisis that the State of California is suffering, PUSD can no longer reasonably continue to fund the extremely low class sizes required by the Quality Education Investment Act (QEIA). Since the implementation of the QEIA Program, PUSD has lost about 18%, or $ 19 million in annual Revenue Limit funding.

Currently, Washington Middle School has required class size ratios of 22.5 for sixth grade, 18.6 for seventh grade, and 19.1 for eighth grade. The average teacher to student ratio for all other middle school classes, grades six to eight, in PUSD, is 30.33.

Washington Middle School has met all funding requirements during the first three years, including teacher qualifications, class size, and API growth. In fact, Washington MS has far exceeded the API Growth targets. See the table below:

	2008-2009	2009-2010	2010-2011	Average
Growth	32	31	14	25.7
Target	10	9	7	8.7

Additionally, we anticipate the school will once again meet all requirements for the 2011-2012 school year.

8. Demographic Information:
Pasadena Unified School district has a student population of 18,652 and is located in an urban area in Los Angeles County. Washington Middle School has a student population of 561.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Chief Finance Officer	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 28-4-2012 **Period of Request:** July 1, 2012, to June 30, 2013
Period Recommended: July 1, 2012, to June 29, 2013
Park Avenue Elementary School **CDS Code:** 51 71464 6053425
Yuba City Unified School District

Local Educational Agency Request:

Yuba City Unified School District (USD) is located in Sutter County and has a student population of approximately 13,228 students. Park Avenue Elementary School (ES) has a student population of approximately 545 students in kindergarten and grades one through five. The district met the Class Size Reduction (CSR) requirements of the Quality Education Investment Act (QEIA) in school year 2010–11 but is asking for an alternative QEIA CSR target for school years 2012–13. The district's current QEIA CSR targets for the average size of core classes of English, mathematics, history-social science, and science are 20.44 in kindergarten and grades one through three, 23.80 in grade four, and 19.19 in grade five.

Yuba City USD states that student enrollment in grade five during the CSR baseline year at Park Avenue ES was unusually low. The district states this low target and fluctuating enrollment has created a challenge in meeting CSR requirements and maintaining funding to continue the QEIA program. The district further states that, in an effort to meet this requirement, additional teachers have been added over the past five years due to increased enrollment at some grade levels.

Yuba City USD requests a waiver of the QEIA CSR targets for grades four and five at Park Avenue ES for school year 2012–13 and the establishment of an alternative CSR target of 25.0 on average in core classes in grades four and five combined.

California Department of Education Recommendation and Conditions:

The California Department of Education (CDE) supports Yuba City USD's request to increase its CSR target for grades four and five at Park Avenue ES.

The CDE recommends approval with the following conditions: (1) Applies only to grade four and five classes at Park Avenue ES for school year 2012–13; (2) Park Avenue ES increase enrollment to 25.0 on average in core classes in grades four and five combined for school year 2012–13; and (3) Within 30 days of approval of this waiver, Yuba City USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.

Reviewed by Park Avenue Elementary Schoolsite Council on April 18, 2012.

Opposed by Yuba City Teachers Association, April 4, 2012.

Local Board Approval: April 24, 2012.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	1	7	1	4	6	4

Local educational agency: Yuba City Unified School District on behalf of Park Avenue Elementary School	Contact name and Title: Doreen Osumi Assistant Superintendent	Contact person's e-mail address: dosumi@ycusd.k12.ca.us
Address: (City) (State) (ZIP) 750 Palora Avenue Yuba City California 95991		Phone (and extension, if necessary): 530-822-7611 Fax Number: 530-671-2454
Period of request: (month/day/year) From: 07-01-2012 To: 06-30-2013	Local board approval date: (Required) April 24, 2012	Date of public hearing: (Required) April 24, 2012

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a)(1) Circle One: *EC* or *CCR*

   Topic of the waiver: QEIA Class Size Reduction Requirements

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _ X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 4, 2012

   Name of bargaining unit and representative(s) consulted: Dina Luetgens, YCTA President

   The position(s) of the bargaining unit(s): _ Neutral __ Support _ X_ Oppose (*Please specify why*)

   Comments (if appropriate): Yuba City Teachers Association voiced concerns regarding class sizes being "too high to allow the staff to continue to offer the interventions and effective instructional practices that have led to their student success".

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* District Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: April 18, 2012

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 52055.740 (a)(1)
(1) Meet all of the following class size requirements:
(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program
(B) For self-contained classrooms in grades 4-8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
~~(i) At least five pupils fewer per classroom that was the average in 2006-2007~~
(ii) An average of 25 pupils per classroom

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Park Avenue students have benefited from the QEIA program. Funding has provided Park Avenue the opportunity to reduce class sizes, provide high quality professional development, and hire innovative, experienced staff who have been instrumental in developing a strong academic program.

Park Avenue Elementary School has met all Class Size Reduction targets since 2006-2007. Student enrollment in 5th grade during the CSR baseline year at Park Avenue was unusually low which resulted in a CSR target of 19.19. This low target and fluctuating enrollment has created a challenge for Park Avenue to meet CSR requirements and maintain funding to continue the QEIA program. Park Avenue Elementary School has an established CSR for 4th grade of 23.83 and 19.19 for 5th grade. In an effort to meet this requirement, additional teachers have been added over the past five years due to increased enrollment at some grade levels.

8. Demographic Information:

(*District/school/program) Park Avenue Elementary School* has a student population of ___545_____ and is located in a __small city (*urban, rural, or small city etc.)* in _Sutter_ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 7 continued:

A three year staffing projection for 2012-2015, indicates that Park Avenue Elementary School will be unable to fund the necessary teachers to meet the CSR requirements over the next three years. Therefore, the QEIA program would not be sustainable. Yuba City Unified School District on behalf of Park Avenue Elementary School is requesting a CSR waiver, which would allow for an average class size ratio of 25:1 for a combined 4th and 5th grade ratio.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

SUMMARY OF THE ISSUE(S)

1. State Board of Education (SBE) Draft Preliminary Report of Actions/Minutes for the May 2012 Meeting

2. Board member liaison reports

RECOMMENDATION

The SBE staff recommends that the SBE:

1. Approve the Preliminary Report of Actions/Minutes for the May 2012 Meeting (Attachment 3)

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

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

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Attachment 1: Acronyms Chart (3 Pages)

Attachment 2: Bylaws for the California State Board of Education, amended July 9, 2003, may be viewed at the following link: *http://www.cde.ca.gov/be/ag/ag/bylawsoct2002.asp*.

Attachment 3: State Board of Education Draft Preliminary Report of Actions/Minutes for the May 2012 Meeting (38 Pages)

ACRONYMS CHART

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

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

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

California State Board of Education
October 29, 2010

CALIFORNIA STATE BOARD OF EDUCATION

Preliminary Report of Actions / Draft Minutes

May 9-10, 2012

Please note that the complete proceedings of the May 9-10, 2012, State Board of Education meeting, including closed-captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
Carl Cohn *(Present on May 10 only)*
Aida Molina
Patricia A. Rucker
Ilene W. Straus
Caitlin Snell

Members Absent:
Carl Cohn *(Absent May 9)*
James Ramos *(Absent May 9-10)*

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction *(Absent May 9)*

Principal Staff
Sue Burr, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Judy Cias, Chief Counsel, SBE
Camille Esch, Principal Education Policy Consultant, SBE
Jill Rice, Assistant Legal Counsel, SBE
Beth Rice, Education Programs Consultant, SBE
Bonnie Klatt, Education Programs Consultant, SBE
Nancy Brownell, Senior Fellow, SBE/ California Department of Education (CDE)
Richard Zeiger, Chief Deputy Superintendent, CDE
Deb Sigman, Deputy Superintendent, CDE
Amy Holloway, General Counsel, CDE
Mary Prather, Education Administrator I, CDE

Public Session

May 9, 2012

President Kirst called the meeting to order at approximately 8:35 a.m.

AGENDA ITEMS

Item 1
Subject: Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of Common Core State Standards Systems.

CDE Recommendation: The California Department of Education (CDE) recommends that the SBE take action as deemed necessary and appropriate but recommends no specific action at this time.

ACTION: No action was taken.

Item 2
Subject: Update on the Next Generation of Science Standards.

CDE Recommendation: There is no specific action recommended at this time.

ACTION: No action was taken.

Item 3
Subject: *English Language Arts/English Language Development Framework for California Public Schools: Kindergarten Through Grade Twelve*, 2014 Revision: Approval of the Timeline and Curriculum Framework and Evaluation Criteria Committee Application Form. The future activities of Instructional Quality Commission will also be discussed.

CDE Recommendation: The CDE recommends that the SBE approve the timeline and CFCC application form for the 2014 revision of the *ELA/ELD Framework*.

ACTION: Member Rucker moved to approve CDE's recommendation to approve the timeline and CFCC application form for the 2014 revision of the *ELA/ELD Framework*.

Member Straus seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

Item 4
Subject: Update on the Activities of the California Department of Education Regarding the Development of the English Language Development Standards for California Public Schools, Kindergarten through Grade Twelve.

CDE Recommendation: The CDE recommends that the SBE take no specific action at this time.

ACTION: No action was taken.

Item 5
Subject: Reauthorization of the Statewide Pupil Assessment System: Update for the State Superintendent of Public Instruction Recommendations.

CDE Recommendation: The CDE recommends that the SBE engage in continued discussion regarding the reauthorization of the statewide pupil assessment system.

ACTION: No action was taken.

Item 6
Subject: A Conversation about the Future of Accountability in California, including the Academic Performance Index and the School Accountability Report Card.

CDE Recommendation: The CDE recommends that this be a discussion/information item with no specific action to be taken at this time.

ACTION: No action was taken.

CLOSED SESSION

State Board President Kirst made the following report regarding the Board's Closed Session:

The Board took action to approve the annual budget amounts for the Ravenswood School District's Self Improvement Plan (RSIP) and the Court Monitor in the matter of *Emma C. et al. v. Delaine Eastin et al*. *USDC (No.Dist.CA), Case No. C-96-4179.*

***** PUBLIC HEARING *****

President Kirst began the public hearing at 2:25 p.m. and closed the hearing at 2:43 p.m.

Item 7
Subject: Long Valley Charter School: Hold a Public Hearing to Consider a Material Revision of the Charter.

CDE Recommendation:
After the CDE's staff review of the revised charter petition, as provided in Attachment 2 to the Agenda item, the CDE recommends that the SBE hold a public hearing and deny the LVCS material revision request.

Advisory Commission on Charter Schools Recommendation: The Advisory Commission on Charter Schools (ACCS) met on April 11, 2012, and voted (six to one) to recommend approval of the material revision for LVCS with the following conditions and stipulations:

1. LVCS has a maximum of three resource centers and up to 500 students, subject to the standard language in the memorandum of understanding (MOU) between the school and the SBE.

2. LVCS will present the CDE with certificates of occupancy for the resource centers and that the resource centers are compliant with the Americans with Disabilities Act (ADA), or at least have a plan to be compliant.

3. The petition will be revised to include the technical amendments identified by the CDE.

ACTION: Member Williams moved to postpone the matter until the July Board meeting, with the expectation that the conditions and stipulations identified by ACCS be met.

Member Straus seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker
No votes: None.
Absent: Members Ramos and Cohn.

With only 4 votes, the motion did not pass.

ACTION: Member Williams moved that on or before June 21, 2012, in order to comply with staff deadlines for the July SBE meeting, Long Valley Charter School shall include all of the following in their material revision:

1. LVCS will operate no more than 3 resources centers and impose a cap of a total 500 students with 25% variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with CDE's requirements for documenting compliance with this enrollment cap.
2. LVCS will present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.
3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will be meet the requirements of HQT.
4. On or before the June deadline, LVCS shall provide evidence of full compliance with all ADA issues identified in the CDE's report.

Member Rucker seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

***** REGULAR CONSENT ITEMS AND WAIVERS ON CONSENT *****

Item 12
Subject: Standardized Testing and Reporting Program: Approval of Standards-based Tests in Spanish Proposed Performance Standards Setting for Reading Language Arts in Grades Eight, Nine, Ten, Eleven, and Math, Algebra I and Geometry, and to Conduct the Regional Public Hearings.

CDE Recommendation: The CDE recommends that the SBE approve the State Superintendent of Public Instruction's (SSPI's) proposed performance standards (levels) for the Standards-based Tests in Spanish for RLA in grades eight through eleven, and for STS Algebra I and Geometry.

The CDE also recommends that the SBE direct CDE and SBE staff to conduct regional public hearings on the proposed performance standards (levels) for the STS for RLA in grades eight through eleven, and for STS Algebra I and Geometry to be brought to the SBE in July 2012 for adoption; in compliance with California *EC* Section 60605, which requires the SBE to adopt statewide performance standards (levels).

Item 23
Subject: Request by Napa Valley Unified School District regarding California *Education Code* sections 17515 through 17526, Joint Public/Private Occupancy Proposal, allowing the Napa Valley Unified School District and Napa Valley College to enter into leases and agreements relating to real property and buildings to be used jointly by the District and Napa Valley College.

CDE Recommendation: The CDE recommends that the SBE approve the Napa Valley Unified School District's proposal to enter into a joint occupancy agreement with NVC to use three classrooms and an office for the use by the college along with designated parking facilities for staff and students.

Item 24
Subject: Approval of 2011–12 Consolidated Applications.

CDE Recommendation: The CDE recommends that the SBE approve the 2011–12 ConApps submitted by LEAs in Attachment 1 to the Agenda Item.

Item 25
Subject: Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

CDE Recommendation: The CDE recommends that the SBE approve 13 direct-funded charter school LEA Plans listed in Attachment 1 to the Agenda item.

Item 26
Subject: Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2.

CDE Recommendation: Pursuant to *California Code of Regulations*, Title 5 sections 11963.3, 11963.4, and 11963.6, the CDE recommends that the SBE approve a determination of funding, identified in Attachment 1 to the Agenda Item, for charter schools that offer nonclassroom-based instruction.

Advisory Commission on Charter Schools Recommendation: The Advisory

Commission on Charter Schools met on April 11, 2012, and voted to recommend approval of the determination of funding request for the charter schools identified in Attachment 1 to the Agenda Item. The motion passed unanimously.

Item 27
Subject: Consideration of Requests for Determination of Funding for Prior Years as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and *California Code of Regulations Title 5* Section 11963.4(c).

CDE Recommendation: Pursuant to *California Code of Regulations*, Title 5 sections 11963.3 and 11963.4, the CDE recommends that the SBE approve a determination of funding, identified in Attachment 1 to the Agenda Item, for a charter school that offers nonclassroom-based instruction.

Advisory Commission on Charter Schools Recommendation: The Advisory Commission on Charter Schools met on April 11, 2012, and voted to recommend approval of the determination of funding request for the charter school identified in Attachment 1 to the Agenda Item. The motion passed unanimously.

Item 28
Subject: Assignment of Numbers for Charter School Petitions.

CDE Recommendation: The CDE recommends that the SBE assign charter numbers to the charter schools identified on list attached to the Agenda Item.

Item 29
Subject: State Instructional Materials Fund—Approve Tentative Encumbrances and Allocations for Fiscal Year 2012–13.

CDE Recommendation: The CDE recommends that the State Board of Education (SBE) approve a resolution for the State Instructional Materials Fund Tentative Encumbrances and Allocations for fiscal year 2012–13 (Attachment 2 to the Agenda Item), with the amounts subject to change based on the final amount appropriated in the Budget Act of 2012, or related legislation for instructional materials.

CHARTER SCHOOL PROGRAM (Attendance Accounting for Multi-Track)
Item W-1 General
Subject: Request by New Jerusalem Elementary School District for a renewal for Delta Charter School to waive *California Code of Regulations*, Title 5, Section 11960(a), to

allow the charter school attendance to be calculated as if it were a regular multi-track school.
Waiver Number: 145-2-2012.
(Recommended for APPROVAL WITH CONDITIONS)

OPEN ENROLLMENT (Removal From the List of LEAs)
Item W-2 General
Subject: Request by ten local educational agencies to waive California *Education Code* Section 48352(a) and *California Code of Regulations*, Title 5, Section 4701, to remove their schools from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year.
Waiver Number: Capistrano Unified School District 15-1-2012
Caruthers Unified School District 37-12-2011
Conejo Valley Unified School District 95-1-2012
Conejo Valley Unified School District 96-1-2012
Evergreen Elementary School District 3-12-2011
Fortuna Union Elementary School District 32-11-2011
Newhall School District 85-12-2011
Pacific Union Elementary School District 24-1-2012
Rohnerville Elementary School District 1-1-2012
Red Bluff Union Elementary School District 33-1-2012
San Antonio Union Elementary School District 48-1-2012
(Recommended for APPROVAL WITH CONDITIONS)

INDEPENDENT STUDY PROGRAM (Pupil Teacher Ratio)
Item W-5 General
Subject: Request by Orange County Department of Education for a renewal of the waiver of California *Education Code* Section 51745.6(a) the requirement that the independent study pupil-teacher ratio shall not exceed the equivalent ratio for all other programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county. The Orange County Department of Education requests continuing an independent study ratio of 35:1.
Waiver Number: 131-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

SUFFICIENCY OF INSTRUCTIONAL MATERIALS - *EC* 60119 (Meeting Held within School Hours)
Item W-11 Specific
Subject: Request by Mono County Office of Education under the authority of California *Education Code* Section 41344.3 to waive *Education Code* Section 60119 and the resulting audit penalty of $26,106 regarding the annual public hearing and board resolution on the availability of textbooks and instructional materials for fiscal year 2010–11 and 2011–12. Mono County Office of Education's public hearings were not

held at a time that encouraged the attendance of teachers, parents, and guardians of pupils. The hearings were held immediately following school hours.
Waiver Number: 185-2-2012
(Recommended for APPROVAL)

SALE OR LEASE OF SURPLUS PROPERTY (Lease of Surplus Property)
Item W-13 General
Subject: Request by two districts, under the authority of California *Education Code* Section 33050, to waive all portions of California *Education Code* sections 17473 and 17474 and portions of 17466, 17472, and 17475, and one of the two districts to waive portions of 17455 relating to the sale and lease of surplus property. Approval of these waivers will allow the districts to lease or sell property using a "request for proposal process", thereby maximizing the proceeds from the sale or lease of the properties.
Waiver Number: Orange Unified School District 91-2-2012
Alhambra Unified School District 169-2-2012
Alhambra Unified School District 170-2-2012
Alhambra Unified School District 171-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-15 General
Subject: Request by Oak Run Elementary School District to waive portions of California *Education Code* Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.
Waiver Number: 19-1-2012.
(Recommend for APPROVAL)

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-16 General
Subject: Request by Gateway Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas and to reduce the number of governing board members from seven to five.
Waiver Number: 123-1-2012
(Recommended for APPROVAL)

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-17 General
Subject: Request by Sierra Sands Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to eliminate trustee areas and to reduce the number of governing board members from seven to five.

Waiver Number: 157-2-2012
(Recommended for APPROVAL)

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-18 General
Subject: Request by Madera County Office of Education to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas for the following seven districts.

Alview-Dairyland Union Elementary
Bass Lake Joint Union Elementary
Chawanakee Unified
Chowchilla Elementary
Chowchilla Union High
Golden Valley Unified
Yosemite Unified

Waiver Number: 172-2-2012
(Recommended for APPROVAL)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-20 Specific
Subject: Request by seven local educational agencies under the authority of California *Education Code* Section 52863 for waivers of *Education Code* Section 52852, relating to schoolsite councils regarding changes in shared, composition, or shared and composition members.

Waiver Number: Butteville Union Elementary 98-2-2012
Garfield Elementary 62-1-2012
Marysville Joint Unified 30-1-2012
Mt. Shasta Union Elementary 16-1-2012
Mt. Shasta Union Elementary 17-1-2012
San Diego County Office of Education 70-2-2012
Shasta County Office of Education 5-1-2012
Temple City Unified 18-1-2012

(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)
Item W-21 General
Subject: Request by the Imperial County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Krystle Padilla, to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum qualifications.
Waiver Number: 106-2-2012

(Recommended for APPROVAL WITH CONDITIONS)

STATE MEAL MANDATE (Summer School Session)
Item W-22 Specific
Subject: Request by seven school districts under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.
Waiver Number: Eastern Sierra Unified 34-1-2012
Liberty Elementary School District 79-2-2012
McCabe Union Elementary School District 101-1-2012
Midway Elementary School District 109-2-2012
Sierra-Plumas Joint Unified School District 89-2-2012
Solvang Elementary School District 100-1-2012
Wiseburn Elementary School District 39-1-2012
(Recommended for APPROVAL)

STATE MEAL MANDATE (Summer School Session)
Item W-31 Specific
Subject: Request by three school districts under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.
Waiver Numbers: Modesto City School District 36-3-2012
Santa Paula High School District 1-4-2012
Snowline Joint Unified School District 30-3-2012
(Recommended for APPROVAL)

ACTION: Member Molina moved to approve the CDE's recommendations, with conditions as applicable, on Items 12 and 23 through 29, and Waiver Items W-1, W-2, W-5, W-11, W-13, W-15 through W-18, W-20 through W-22, and W-31.

Member Straus seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

The motion passed with 6 votes.

***** END OF REGULAR CONSENT ITEMS AND WAIVERS ON CONSENT*****

(Additional regular consent Items and additional Waiver Items on consent were taken up on Day 2 of the SBE meeting, May 10.)

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

President Kirst began and closed the public hearing at 4:05 p.m.

Item 8
Subject: Long Valley Charter School: Consider Issuing a Notice of Intent to Revoke Pursuant to California *Education Code* Section 47607(e).

CDE Recommendation: The CDE recommends that the State Board of Education (SBE) consider that LVCS may have violated provisions of law pursuant to California *Education Code* (*EC)* Section 47607(c)(1) as described in a notice of violation issued by the SBE to LVCS on March 7, 2012.

Since insufficient evidence has been provided to cure the issues specified in the Letter of Violation as of the date of posting, the CDE recommends that if the SBE finds that LVCS has failed to refute, remedy, or propose to remedy the violations described in the notice of violation, the SBE issue a Notice of Intent to Revoke and Notice of Facts in support of revocation pursuant to *EC* Section 47607(e), included as Attachment 5.

If the SBE issues a Notice of Intent to Revoke and Notice of Facts in support of revocation of LVCS, the CDE also recommends that the SBE hold a public hearing on May 10, 2012, to consider revocation of the LVCS charter.

The Advisory Commission on Charter Schools (ACCS) Recommendation: The ACCS met on April 11, 2012, and voted not to issue a Notice of Intent to Revoke and Notice of Facts in support of revocation pursuant to *EC* Section 47607(e) of the Long Valley Charter School with the following conditions and stipulations:

1. LVCS has a maximum of three resource centers and up to 500 students, subject to the standard language in the Memorandum of Understanding between the school and the SBE.

2. LVCS present the CDE with certificates of occupancy for the resource centers and that the resource centers are compliant with the Americans with Disabilities Act (ADA) or at least have a specific plan to be compliant.

3. That the petition be revised to include the technical amendments identified by the CDE.

ACTION: Member Williams moved to table the item to the July 2012 SBE meeting.

Member Rucker seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

NOTE: By the terms of 5 CCR 11968.5.2 (e), "If the chartering authority does not act, as specified in subdivision (d), within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, the revocation process is terminated and the Notice of Violation is void." The Notice of Violation issued at the March 2012 SBE meeting is void on June 4, 2012 and therefore, the SBE will not be able to act on the March Notice of Violation after that date.

President Kirst began the public hearing at 4:12 p.m. and closed the hearing at 4:23 p.m.

Item 9
Subject: Doris Topsy-Elvord Academy: Consider Issuing a Notice of Violation Pursuant to California *Education Code* Section 47607(d).

CDE Recommendation: The CDE recommends that the State Board of Education (SBE) issue a Notice of Violation, draft letter provided as Attachment 1, pursuant *to EC* Section 47607(d) because the CDE believes that DTEA has engaged in fiscal mismanagement pursuant to *EC* Section 47607(c)(3). The CDE has sought to address violations through Notices of Concern, as presented in Attachments 2 and 4.

Pursuant to *EC* Section 47607(d) and *California Code of Regulations*, Title 5 (*5 CCR*) Section 11968.5.2, the CDE also recommends that DTEA have the opportunity to present evidence that refutes, remedies, or proposes to remedy the alleged violations at the June 2012, meeting of the Advisory Commission on Charter Schools (ACCS). The CDE recommends that the ACCS make a recommendation to the SBE regarding whether, at the July 2012 meeting of the SBE, the SBE should issue a Notice of Intent to Revoke pursuant to *EC* Section 47607(e) to DTEA.

Relevant excerpts from statute, as well as SBE history, are provided as Attachment 6.

ACCS Recommendation: The ACCS considered the DTEA petition at its April 11, 2012, meeting and unanimously accepted the CDE's recommendation to issue a notice of violation.

ACTION: Member Williams moved to accept the recommendation of the ACCS and the CDE to issue a Notice of Violation. The charter school will not go to the ACCS at its June 2012 meeting in order to provide the charter school with additional time to provide

evidence of remedying the concerns identified in the Notice of Violation, but will come directly to the SBE at its July 2012 meeting.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Cohn and Ramos.

The motion passed with 6 votes.

President Kirst began the public hearing at 4:45 p.m. and closed the hearing at 5:06 p.m.

Item 10
Subject: Lifeline Education Charter School: Hold a Public Hearing to Consider a Petition to Renew Charter Currently Authorized by the State Board of Education.

CDE Recommendation: The CDE recommends that the SBE hold a public hearing and approve the Lifeline charter renewal petition, with the condition that the school fully implements, on the first day of instruction, the plan submitted by the school to address concerns raised by the CDE regarding teacher credentialing. Prior to the beginning of the upcoming school year, CDE staff will review Lifeline's compliance with the plan.

ACCS Recommendation: The ACCS considered the Lifeline petition at its April 11, 2012, meeting. The ACCS recommended approval of the Lifeline charter renewal petition to the SBE by a vote of five to one.

ACTION: Member Straus moved to approve CDE's recommendation to approve the Lifeline charter renewal petition, with the condition that the school fully implements, on the first day of instruction, the plan submitted by the school to address concerns raised by the CDE regarding teacher credentialing.

Member Williams seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Cohn and Ramos.

The motion passed with 6 votes.

President Kirst began the public hearing at 5:17 p.m. and closed the hearing at 5:25 p.m.

Item 11
Subject: Ackerman Charter School District (CSD): Hold a Public Hearing to Consider a Petition to Renew Districtwide Charter.

CDE Recommendation: The CDE recommends that the SBE hold a public hearing and renew the districtwide charter for the Ackerman CSD for a five-year term ending June 30, 2017. In accordance with the requirements in *EC* Section 47606(b), the SSPI recommends approval of the Ackerman CSD charter renewal.

ACCS Recommendation: The ACCS met on April 11, 2012, and voted to recommend approval of the charter renewal petition request by Ackerman CSD. The motion passed unanimously.

ACTION: Member Molina moved to approve CDE's and ACCS's recommendation to renew Ackerman CSD's charter renewal petition.

Member Rucker seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

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

***** WAIVERS NOT ON CONSENT*****

WAIVER ITEM W-23 WAS WITHDRAWN BY THE DISTRICT

STATE MEAL MANDATE (Summer School Session)
Item W-23 Specific
Subject: Request by Burlingame Elementary School District under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.
Waiver Number: 8-3-2012
(Recommended for DENIAL)

ACTION: No action taken. The waiver was withdrawn by the district.

The following waiver items were taken out of order to accommodate speakers from out of town: W-24, W-14, and W-26.

STATE MEAL MANDATE (Summer School Session)
Item W-24 Specific
Subject: Request by Kingsburg Joint Union High School District under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session for Kingsburg High School.
Waiver Number: 24-3-2012
(Recommended for DENIAL)

ACTION: Member Rucker moved to deny the waiver request, as recommended by CDE.

Member Molina seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-14 General
Subject: Request by Richland Elementary School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Number: 3-1-2012
(Recommended for APPROVAL)

ACTION: Member Straus moved to approve the CDE's recommendation to grant the waiver request.

Member Willliams seconded the motion.

Yes votes: Members Molina, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Cohn and Ramos.

The motion passed with 6 votes.

Item W-26 General
Subject: Request by Mt. Diablo Unified School District to waive California *Education Code* Section 47660 regarding the impact of Clayton Valley Charter High School Funding.
Waiver Number: 136-2-2012
(Recommended for DENIAL)

ACTION: Member Williams moved to deny the waiver request as recommended by CDE.

Member Rucker seconded the motion.

Yes votes: Members Kirst, Williams, Snell, and Rucker.

No votes: Members Straus and Molina.

Absent: Members Cohn and Ramos.

With only 4 votes, the motion did not pass.

NOTE: Because no action was taken, this Waiver Item will return to the Board at its July 22012 meeting.

***** END OF WAIVERS NOT ON CONSENT *****

(Additional Waiver Items were taken up on Day 2 of the SBE meeting, May 10.)

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

Public Session
May 10, 2012

Report of the Superintendent

State Superintendent of Public Instruction Tom Torlakson provided his report to the Board.

AGENDA ITEMS

Item 13
Subject: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

SBE Recommendation: The SBE staff recommends that the SBE approve the Preliminary Report of Actions/Draft Minutes for the March 2012 Meeting (Attachment 3 to the Agenda Item).

ACTION: Member Cohn moved to approve the minutes for the March 2012 SBE meeting.

Member Molina seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

The motion passed with 7 votes.

Item 14
Subject: Elementary and Secondary Education Act: Discussion and Possible Recommendation to Waive Selected Provisions of the Elementary and Secondary Education Act Pursuant to Section 9401.

CDE Recommendation: The CDE recommends that the SBE take action as deemed necessary and appropriate.

ACTION: Member Cohn moved to allow the CDE to take this waiver request forward as appropriate.

Member Williams seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

Item 15
Subject: California High School Exit Examination: Adoption of the Streamlined Waiver Policy for Waiving the California High School Exit Examination Requirement for Eligible Students with Disabilities.

CDE Recommendation: The CDE recommends that the SBE adopt a streamlined waiver policy for requests by local educational agencies (LEAs) or special education local plan areas (SELPAs) on behalf of eligible students with disabilities (SWDs) to waive *EC* Section 60851 requiring all students to satisfy the CAHSEE requirement as a condition of receiving a diploma of graduation or a condition of graduation from high school.

ACTION: Member Cohn moved to adopt a streamlined waiver policy proposed by the CDE using the following cut scores identified by the ACSE: a performance level scale score of 300 (Basic) or above on the Standardized Testing and Reporting (STAR) Program California Standards Test (CST) in English language arts (ELA) grade ten and a score of 269 for Algebra I without the use of a modification, or a scale score of 350 (Proficient) or above on the California Modified Assessment (CMA) in ELA grade ten and a score of 331 for grade ten Algebra I.

Member Williams seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Williams, and Snell.

No votes: Kirst and Rucker.

Absent: Member Ramos.

With only 5 votes, the motion failed.

ACTION: Member Cohn moved to adopt a streamlined waiver policy proposed by the CDE using the following cut scores identified by the CDE: a performance level scale

score of 300 (Basic) or above on the STAR Program CST in ELA grade ten or Algebra I without the use of a modification, or a scale score of 350 (Proficient) or above on the CMA in ELA grade ten or Algebra I.

Member Williams seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Williams, Kirst, Rucker, and Snell.

No votes: none.

Absent: Member Ramos.

The motion passed with 7 votes.

Item 16
Subject: Elementary and Secondary Education Act Update: School Improvement Grant (SIG): Approval of Applications by Cohort 1 Local Educational Agencies and Schools Receiving Sub-Grants Under Section 1003(g) for a Waiver of the Timeline to Develop and Implement Teacher and Principal Evaluation Systems That Meet Certain Requirements During the First Year a School is Implementing the Transformation Model.

CDE Recommendation: The CDE recommends that the SBE approve a SIG Transformation Model Timeline Waiver for LEAs with Cohort 1 SIG schools implementing the transformation model who have submitted an approvable application. The list of local education agencies recommended for the waiver is provided in Attachment 4 in the Item Addendum, with the exception of Stanford New School in San Mateo County.

Note: During the CDE staff presentation of this item, it was noted that the Stanford New School in San Mateo County was withdrawn from the list in the Item Addendum and therefore was not included in the SBE's action for approval.

ACTION: Member Straus moved approval of CDE's recommendation.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

***** PUBLIC HEARING *****

President Kirst began the public hearing at 10:30 a.m. and closed the hearing at 10:42 a.m.

Item 17
Subject: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Hold a Public Hearing to Consider the Multicultural Achievement Technology Teaching & Innovative Experiences Academy of Change (MATTIE), Which Was Denied by the Los Angeles Unified School District Board of Education and the Los Angeles County Office of Education Board of Education.

CDE Recommendation: The CDE recommends that the SBE hold a public hearing to deny the petition to establish the MATTIE charter school under the oversight of the SBE based on the CDE's finding pursuant to *EC* sections 47605(b)(1), 47605(b)(2), and 47605(b)(5), as well as *California Code of Regulations,* Title 5 (5 *CCR)* 11967.5 that the petitioners are unlikely to successfully implement the program set forth in the petition.

ACCS Recommendation: The ACCS considered the MATTIE petition at its April 11, 2012, meeting and accepted the CDE's recommendation stated above by a vote of six to one.

ACTION: Member Molina moved to accept the CDE's recommendation to deny the MATTIE petition.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

***** END OF PUBLIC HEARING *****

Item 18
Subject: Reconsideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and *California Code of Regulations,* Title 5, Section 11963.6(g).

CDE Recommendation: Pursuant to *5 CCR* sections 11963.3 and 11963.4, the CDE recommends that the SBE deny the redetermination request for a higher level of

funding, identified in Attachment 1 to the Agenda Item, for the charter schools that offer nonclassroom-based instruction.

ACCS Recommendation: The ACCS met on April 11, 2012, and voted to recommend approval of a higher level of funding for the nonclassroom-based charter schools identified in Attachment 1 to the Agenda Item. The motion passed six to one.

ACTION: Member Molina moved to accept the ACCS recommendation to grant 85% funding with mitigation.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Abstention: Member Rucker.

The motion passed with 6 votes.

***** WAIVERS ON CONSENT *****

PHYSICAL FITNESS TESTING (Physical Fitness Testing)
Item W-6 General
Subject: Request by Fremont Unified School District to waive portions of the California *Education Code* Section 60800(a), relating to Physical Fitness Testing, specifically the testing window of February 1 through May 31 for grade nine students.
Waiver Number: 67-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Algebra I Requirement for Graduation)
Item W-7 Specific
Subject: Request by four local educational agencies to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2011−12 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for 14 special education students based on *Education Code* Section 56101, the special education waiver authority.
Waiver Numbers: Conejo Valley Unified School District 146-2-2012
Lindsay Unified School District 177-2-2012
Natomas Unified School District 141-2-2012

San Dieguito Union High School District 150-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Resource Teacher Caseload)
Item W-8 Specific
Subject: Request by Alpine Union Elementary School District, under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students (32 maximum). Kristen Kelly Blankenship is assigned to Alpine Elementary Shcool.
Waiver Number: 31-1-2012
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Extended School Year (Summer School))
Item W-9 General
Subject: Request by 12 local educational agencies to waive *California Code of Regulations,* Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.
Waiver Number(s): Butte County Office of Education 99-1-2012
Calexico Unified School District 130-2-2012
Cascade Union Elementary School District 34-11-2011
El Centro Elementary School District 118-2-2012
Imperial County Office of Education 127-2-2012
Imperial Unified School District 37-1-2012
Madera County Office of Education 27-12-2011
Meadows Union Elementary School District 97-1-2012
South Bay Union Elementary School District 81-2-2012
Tehama County Office of Education 23-1-2012
Woodland Joint Unified School District 82-12-2011
Yolo County Office of Education 71-12-2011
(Recommended for APPROVAL WITH CONDITIONS)

STATE TESTING APPORTIONMENT REPORT (CAHSEE)
Item W-10 General
Subject: Request by seven local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.

Waiver Numbers: Coalinga-Huron Joint Unified School District 40-1-2012
Culver City Unified School District 43-1-2012
Fairfield-Suisun Unified School District 80-2-2012
Live Oak Elementary School District 154-2-2012
Santa Cruz City Elementary School District 69-1-2012
Santa Cruz City High School District 66-1-2012
Sutter County Office of Education 116-2-2012
(Recommended for APPROVAL)

ACTION: Member Rucker moved to approve CDE's recommendation on Waiver Items W-6 through W-10.

Member Cohn seconded the motion.

Yes votes: Members Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Ramos.

The motion passed with 6 votes.

***** END OF WAIVERS ON CONSENT *****

SCHOOL DISTRICT REORGANIZATION (Elimination of Election Requirement)
Item W-19 General
Subject: Request by 10 districts to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Numbers: Bakersfield City 143-1-2012
Escalon Unified 21-1-2012
Escondido Union High 85-2-2012
Esparto Unified 32-1-2012
Greenfield Union Elementary 6-1-2012
Gustine Unified 2-3-2012
Kern Union High 2-1-2012
Lake Elsinore Unified 4-1-2012
Panama-Buena Vista Union Elem. 144-1-2012
Winters Joint Unified 26-1-2012
(Recommended for APPROVAL)

ACTION: Member Cohn moved to approval of CDE's recommendation to approve the waivers

Member Straus seconded the motion.

Yes votes: Members Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

Abstention: Member Molina.

The motion passed with 6 votes.

NOTE: The CDE presentation also clarified that Winters was also seeking a waiver to reduce the size of their governing board from 7-5 that was not in the write-up.

INSTRUCTIONAL TIME REQUIREMENT AUDIT PENALTY (Charter - Minimum Instructional Time)
Item W-12 Specific
Subject: Request by Albert Einstein Academy for Letter, Arts, and Sciences under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5 (c), the audit penalty for offering less instructional time in the 2010-11 fiscal year for students in grade nine (shortfall of 7,824 minutes).
Waiver Number: 5-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Cohn moved to approve CDE's recommendation.

Member Straus seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

PRINCIPAL EVALUATION AND ASSESSMENT (Extend Timeline of Evaluation)
Item W-27 General
Request by two districts to waive California *Education Code* Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees so that Standardized Testing and Reporting test results for the year may be included in the evaluation criteria for those management employees.

Waiver Numbers: Lincoln Unified School District 94-1-2012
Pomona Unified School District 25-1-2012

(Recommended for DENIAL)

ACTION: Member Straus moved to approve to approve the waivers without conditions.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: Member Rucker

Absent: Member Ramos.

The motion passed with 6 votes.

OPEN ENROLLMENT (Removal From the List of LEAs)
Item W-3 General
Subject:
Request by four local educational agencies to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701 to remove their schools from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year.
Waiver Numbers: Fowler Unified School District 2-12-2011
Grass Valley Elementary School District 41-12-2011
Savanna Elementary School District 10-11-2011
Yucaipa-Calimesa Joint Unified School District 15-11-2011
Yucaipa-Calimesa Joint Unified School District 28-12-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Straus moved to approve CDE's recommendation to approve with conditions.

Member Molina seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Williams, and Snell.

No votes: Kirst and Rucker

Absent: Member Ramos.

With only 5 votes, the motion failed.

Note: Because this was the second regular meeting that the waiver appeared before the Board and the Board failed to take action, the waiver was deemed approved for one year with no conditions.

OPEN ENROLLMENT (Removal From the List of LEAs)
Item W-4 General
Subject: Request by Linden Unified School District to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701, to remove Glenwood Elementary School from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year.
Waiver Number: Linden Unified School District 22-1-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Straus moved to approve the CDE recommendation.

Member Cohn seconded the motion.

Yes votes: Members Cohn, Straus, Williams, and Snell.

No votes: Molina, Kirst, and Rucker

Absent: Member Ramos.

With only 4 votes, the motion failed.

NOTE: Because no action was taken, this Waiver Item will return to the Board at its July meeting.

OPEN ENROLLMENT (Removal From the List of LEAs)
Item W-25 General
Subject: Request by Fremont Unified School District to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5, Section 4701, to remove Robertson High School from the Open Enrollment List of "low-achieving schools" for the 2012–13 school year.
Waiver Number: Fremont Unified School District 148-2-2012
(Recommended for DENIAL)

ACTION: Member Rucker moved to approve CDE's recommendation to deny the waiver.

There was no second and the motion failed.

ACTION: Member Rucker moved to approve the waiver.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

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

The Public Hearing on this item was cancelled because the SBE did not issue a Notice of Intent to Revoke on May 9th pursuant to Item #8.

Item 19
Subject: Long Valley Charter School: Hold a Public Hearing and Consider Revocation Pursuant to California *Education Code* Section 47607(e).

CDE Recommendation: If on May 9, 2012, the SBE issues a Notice of Intent to Revoke the charter of the LVCS, the CDE recommends that the SBE hold a public hearing on May 10, 2012, to consider the revocation of the LVCS charter.

If the SBE finds sufficient grounds for revocation, the CDE recommends that the SBE adopt the Final Decision to Revoke and Notice of Facts in Support of the Revocation of the Long Valley Charter School (Attachment 1), effective 4 p.m., Friday, June 29, 2012.

If the SBE adopts Attachment 1, LVCS is directed to comply immediately with the closure procedures set forth in its charter and in Appendix E of the Memorandum of Understanding between the SBE and LVCS, with the exception of keeping the school open until 4 p.m., Friday, June 29, 2012, for the purpose of transitioning all LVCS students to a new school.

ACTION: Because the public hearing was cancelled, no action was taken on this item.

President Kirst began the public hearing at 1:23 p.m. and closed the hearing at 1:23 p.m.

Item 20
Subject: Environmental Effect of the Proposed Unification of the Santa Paula Union High School District and the Santa Paula Elementary School District in Ventura County.

CDE Recommendation: The CDE recommends that the SBE determine that the proposed unification of the Santa Paula UHSD and the Santa Paula ESD is not a project under the California Environmental Quality Act (CEQA) as defined in *PRC* Section 21065 and 14 *CCR* Section 15378(b)(5).

ACTION: Member Cohn moved to approve the CDE recommendation and determine that the proposed unification is not a project under CEQA.

Member Straus seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, Snell, and Rucker.

No votes: None.

Absent: Member Ramos.

The motion passed with 7 votes.

President Kirst began the public hearing at 1:30 p.m. and closed the hearing at 1:37 p.m.

Item 21
Subject: Proposed Unification of the Santa Paula Union High School District (UHSD) and the Santa Paula Elementary School District (ESD) in Ventura County.

CDE Recommendation: The CDE recommends that the SBE hold a public hearing and adopt the proposed resolution in Attachment 2, thereby approving the proposal to unify the Santa Paula UHSD and the Santa Paula ESD. The proposed resolution also includes additional provisions to the plans and recommendations of the proposal that are included in Section 7.0 of Attachment 1 (e.g., governing board membership, bonded indebtedness responsibilities, and area of election).

(The SBE has already excluded Santa Paula UHSD's three remaining component elementary districts [Briggs, Mupu, and Santa Clara] from the unification as authorized by *EC* Section 35542[b].)

ACTION: Member Rucker moved to approve the CDE recommendation to approve the proposal to unify the Santa Paula UHSD and the Santa Paula ESD.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Williams, Snell, and Rucker.

No votes: None.

Absent: Members Ramos and Kirst.

The motion passed with 6 votes.

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

***** WAIVERS ON CONSENT *****

Member Rucker recused herself from discussion of the following waivers on consent: W-28, W-29, and W-32 through W-34, with the exception of the waivers submitted by Oakland Unified School District (USD) included in W-32 and W-33.

CLASS SIZE PENALTIES (Over limit on Kindergarten - Grade 3)
Item W-28 Specific
Subject: Request by 10 districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and/or 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: Barstow Unified School District 29-1-2012
Central Elementary School District 120-2-2012
Etiwanda Elementary School District 84-2-2012
Fullerton Elementary School District 86-2-2012
La Mesa-Spring Valley School District 108-2-2012
Orange Unified School District 92-2-2012
Romoland Elementary School District 129-2-2012
Upland Unified School District 167-2-2012
Victor Elementary School District 133-2-2012
Willows Unified School District 45-1-2012
(Recommended for APPROVAL WITH CONDITIONS)

CLASS SIZE PENALTIES (Over Limit on Grades 4-8)
Item W-29 General
Subject: Request by nine districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: Berryessa Union Elementary School District 107-2-2012
Central Elementary School District 121-2-2012
Fullerton Elementary School District 87-2-2012

Hemet Unified School District 65-1-2012
Orange Unified School District 93-2-2012
Romoland Elementary School District 126-2-2012
Upland Unified School District 151-2-2012
Victor Elementary School District 134-2-2012
Willows Unified School District 46-1-2012
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)
Item W-32 General
Subject: Request by eleven local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.
Waiver Number: Capistrano Unified 38-1-2012
Lynwood Unified 179-2-2012
Lynwood Unified 181-2-2012
Pajaro Valley Unified 74-2-2012
Pajaro Valley Unified 75-2-2012
Pajaro Valley Unified 78-2-2012
Romoland Elementary 128-2-2012
Sacramento City Unified 102-1-2012
Sacramento City Unified 103-1-2012
Sacramento City Unified 104-2-2012
Sacramento City Unified 105-2-2012
San Bernardino City Unified 112-2-2012
San Francisco Unified 159-2-2012
San Francisco Unified 160-2-2012
San Francisco Unified 162-2-2012
San Francisco Unified 163-2-2012
San Francisco Unified 165-2-2012
Santa Ana Unified 173-2-2012
Santa Ana Unified 174-2-2012
Santa Ana Unified 175-2-2012
Santa Ana Unified 176-2-2012
Santa Paula Elementary 183-2-2012
West Contra Costa Unified 125-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-33 General
Subject: Request by five local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act.
Waiver Number(s): Lucerne Valley Unified 139-2-2012
Madera Unified 68-1-2012
Oakland Unified 54-2-2012
Oakland Unified 57-2-2012
San Francisco Unified 164-2-2012
West Contra Costa Unified 124-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Williams Settlement)
Item W-34 General
Subject: Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding Highly Qualified Teachers and/or the *Williams* case settlement requirements under the Quality Education Investment Act.
Waiver Number: Lynwood Unified 178-2-2012
Lynwood Unified 180-2-2012
Lynwood Unified 182-2-2012
Sacramento City Unified 11-3-2012
San Bernardino City Unified 113-2-2012
San Bernardino City Unified 114-2-2012
San Bernardino City Unified 115-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Straus moved to approve the CDE's recommendations, with conditions as applicable, on Waiver Items W-28, W-29, W-32 through 34, with the exception of the waivers submitted by Oakland USD included in W-32 and W-33 (which were heard separately, later in the meeting).

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Recused: Member Rucker.

Absent: Member Ramos.

The motion passed with 6 votes.

***** END OF WAIVERS ON CONSENT *****

***** WAIVERS NOT ON CONSENT *****

Member Rucker recused herself from the discussion of this item.

CLASS SIZE PENALTIES (Over Limit on Grades 4-8)
Item W-30 General
Subject: Request by three districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: Banning Unified School District 110-2-2012

Eureka Union School District 137-2-2012
Lodi Unified School District 122-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Cohn moved to approve the CDE recommendation.

Member Molina seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)
Item W-32 General
Subject: Request by Oakland Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.
Waiver Numbers: Oakland Unified 50-2-2012
Oakland Unified 52-2-2012
Oakland Unified 55-2-2012
Oakland Unified 56-2-2012
Oakland Unified 58-2-2012
Oakland Unified 60-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Straus moved to approve the CDE recommendation.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-33 General
Subject: Request by five local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act.
Waiver Number(s): Oakland Unified 54-2-2012
Oakland Unified 57-2-2012
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Straus moved to approve the CDE recommendation.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (API Growth Target)
Item W-35 General
Subject: Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a)(5), regarding the Academic Performance Index under the Quality Education Investment Act.
Waiver Number: Antioch Unified 156-2-2012
Pajaro Valley Unified 71-2-2012
Pajaro Valley Unified 72-2-2012
San Francisco Unified 158-2-2012
San Francisco Unified 161-2-2012
San Francisco Unified 166-2-2012
(Recommended for DENIAL)

ACTION: Member Molina moved to approve CDE's recommendation to deny the waivers.

Member Cohn seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (API Growth Target)
Item W-36
Subject: Request by Grossmont Union High School District to waive portions of California *Education Code* Section 52055.760(c)(3), regarding alternative program and Academic Performance Index requirements under the Quality Education Investment Act.
Waiver Number: 55-12-2011
(Recommended for DENIAL)

ACTION: Member Molina moved to approve the waiver for one year (July 1, 2011 – June 30, 2012) with the condition that if the school does not meet the API growth targets that are released in the Fall of 2012 that the district will need to reapply for another waiver.

Member Williams seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Money to follow students)
Item W-37
Subject: Request by Farmersville Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Farmersville Junior High School to follow its grade six class that will be transferring to Freedom Elementary School.
Waiver Number: 149-2-2012
(Recommended for DENIAL)

ACTION: Member Molina moved to accept CDE's recommendation to deny the waiver.

Member Williams seconded the motion.

Yes votes: Members Molina, Cohn, Kirst, Williams, and Snell.

No votes: Member Straus.

Absent: Member Ramos.

Recused: Member Rucker.

With only 5 votes, the motion failed. No action taken.

NOTE: Because no action was taken, this Waiver Item will return to the Board at its July 2012 meeting.

Member Rucker recused herself from the discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)
Item W-38
Subject: Request by three local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.
Waiver Number: Oakland Unified 59-2-2012
Pajaro Valley Unified 73-2-2012
Pajaro Valley Unified 76-2-2012
Pajaro Valley Unified 77-2-2012
Rialto Unified 135-2-2012
Rialto Unified 142-2-2012
(Recommended for DENIAL)

ACTION: Member Molina moved to approve 1-year waivers (from July 1, 2010 - June 30, 2011) for the following districts with the condition that the schools satisfy the QEIA class size requirements moving forward:

Oakland Unified 59-2-2012
Pajaro Valley Unified 73-2-2012
Pajaro Valley Unified 76-2-2012
Pajaro Valley Unified 77-2-2012

And moved to deny the waivers for the following district:

Rialto Unified 135-2-2012
Rialto Unified 142-2-2012

Member Straus seconded the motion.

Yes votes: Members Molina, Cohn, Straus, Kirst, Williams, and Snell.

No votes: None.

Absent: Member Ramos.

Recused: Member Rucker.

The motion passed with 6 votes.

***** END OF WAIVERS NOT ON CONSENT *****

Item 22
Subject: PUBLIC COMMENT.
Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.

ACTION: No action was taken.

*** **ADJOURNMENT OF MEETING AT 3:31PM *****

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Public Charter Schools Grant Program: Update, Regarding Assurances 3A and 3B.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

On August 18, 2010, the California Department of Education (CDE) was awarded approximately $290 million to administer the federal Public Charter Schools Grant Program (PCSGP) for the 2010–15 grant cycle. The United States Department of Education (ED) found California to be non-compliant with Assurances 3A and 3B of the grant on August 11, 2011. This item presents an update on these non-compliance issues.

RECOMMENDATION

The CDE is providing an update to the State Board of Education (SBE) on the progress of bringing California into compliance with Assurances 3A and 3B.

BRIEF HISTORY OF KEY ISSUES

In October of 2010, the CDE was notified by the ED that it was not compliant with the following element of Assurance 3A and not compliant with the entirety of Assurance 3B of the PCSGP:

3A) Each authorized charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that … demonstrates improved student academic achievement; and

3B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the Elementary and Secondary Education Act (ESEA), including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency, as the most important factor when determining to renew or revoke a school's charter.

The CDE Charter Schools Division (CSD) provided a formal written response regarding Assurances 3A and 3B to the ED in a letter dated November 1, 2010. On March 31, 2011, the CDE received an e-mail from the ED indicating that California was not fully compliant with Assurances 3A and 3B and had not submitted a plan and timeline describing the state's progress in addressing the assurances. On May 23, 2011, the CDE CSD responded with a follow-up e-mail addressing the assurances. However, the CDE received an e-mail from the ED on May 24, 2011, indicating that these responses were considered insufficient in addressing the lack of state law, regulation, or policy relative to Assurances 3A and 3B.

Since that time, CDE and SBE staff have participated in a number of calls with ED staff regarding the assurances and CDE's work with California legislative staff to revise state law regarding charter authorization, renewal, and revocation. CDE and SBE staff also reviewed related state law as a basis for writing new regulations.

On August 11, 2011, the ED notified the CDE that it is partially out of compliance with Assurance 3A and completely out of compliance with Assurance 3B in the PCSGP grant application because increases in pupil academic achievement in all groups of pupils as described in Section 1111(b)(2)(C)(v) of the ESEA is not the "primary consideration" in the approval, renewal, and revocation of California charter schools.

On August 11, 2011, the CDE also received formal notice from the ED that the CDE must either provide evidence of state law, regulation, or other policy that addresses compliance with Assurances 3A and 3B or provide a written plan of action to the ED that addresses compliance by September 1, 2011. If a plan is submitted, it must be approved by the ED and enacted by January 31, 2012. Failure to comply with these requirements will result in the ED taking action, which may include withholding of grant funds, placing the grant on a cost reimbursement system of payment, terminating the grant, or initiating a recovery of funds proceeding.

To address the aforementioned ED's findings and to ensure that all charter schools are accountable for the increased academic achievement of all pupils served and that California continues to receive PCSGP funds to support high quality charter schools, the CDE and SBE have examined a number of alternatives.

The CDE and SBE staff continue to have ongoing dialogue with ED regarding a resolution to this issue. Refer to Attachment 1 for the chronology of communication.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On September 7, 2011, the SBE was provided an update on the status of the non-compliance findings.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE was awarded approximately $290 million for the 2010–15 PCSGP grant cycle. If no action is taken, the CDE is at risk of permanently losing some or all of this grant award.

For the fiscal year (FY) 2010–11, the CDE received $42.5 million of the PCSGP award; in FY 2011–12, the CDE received $49.4 million of the PCSGP award. These amounts differed from the original grant award notification, which awarded $51.8 million in FY 2010–11 and $51.6 million in FY 2011–12. In FY 2010–11, $9.2 million was awarded with the conditions that it could not be spent until FY 2011–12 and that it had to be tracked separately from the other PCSGP grant funds. A revised grant award notification reduced the original amounts to $42.5 million for FY 2010–11 and $40.1 million for FY 2011–12.

ATTACHMENT(S)

Attachment 1: Chronology of California Department of Education Responses Regarding Assurances 3A and 3B of the Public Charter Schools Grant Program Application (3 Pages)

Attachment 2: Letters sent from the California Department of Education Charter Schools Division on November 1, 2010, September 1, 2011, and October 17, 2011 (14 Pages)

Chronology of California Department of Education Responses Regarding Assurances 3A and 3B of the Federal Public Charter Schools Grant Program Application

Date	Subject
July 6, 2012	Teleconference between the California Department of Education (CDE), State Board of Education (SBE) staff, and United States Department of Education (ED) regarding the Public Charter Schools Grant Program (PCSGP). The ED, after reviewing the crosswalk provided on June 1, again concluded that California is not compliant with part of Assurance 3A and the entirety of Assurance 3B.
June 1, 2012	CDE and SBE staff sent the ED a crosswalk of its existing statutes and regulations in a renewed effort to demonstrate compliance with Assurances 3A and 3B.
May 17, 2012	Teleconference between the CDE, SBE staff, and ED regarding the PCSGP grant compliance issues: clarification of requirements and an update on Assurances 3A and 3B.
April 24, 2012	Teleconference between CDE, SBE staff, and ED regarding PCSGP grant compliance issues: overview of Assurances 3A and 3B, including charter or performance contracts, independent annual audits, improved student academic achievement for all students being the most important renewal/revocation criterion.
April 13, 2012	The CDE staff met with the SBE staff regarding the PCSGP.
January 17, 2012	The CDE received an email from Leslie Hankerson (ED) to Julie Baltazar and Cindy Chan (Charter Schools Division [CSD]) inquiring about the status of any updated California Charter Schools Program Assurance information, particularly 3A(3) and 3B.
December 8, 2011	Teleconference between CDE, SBE staff, and ED regarding PCSGP grant compliance issues: compliance with Assurances 3A and 3B.
October 17, 2011	The CDE sent a letter from Beth Hunkapiller (Director, CDE CSD) to Stefan Huh (Director, ED) in response to the August 11, 2011 grant award notification letter clarifying Assurances 3A and 3B of the PCSGP application.
September 1, 2011	The CDE sent a letter from Lupita Cortez Alcala (Deputy Superintendent of Public Instruction, CDE) to Stefan Huh (Director, ED) addressing CDE's compliance with Assurances 3A and 3B of the PCSGP application. The letter specified a corrective plan involving the CDE, SBE, and California State Legislature and outlined proposed legislative and regulatory changes.
August 23, 2011	The CDE and SBE staff had a phone conference with ED staff to clarify reductions to the PCSGP grant award. During this phone call, the CDE was informed that the compliance issues were unrelated to the funding reductions. Rather, the CDE was informed that the cuts were due to the fact that the ED found the CDE's estimates of the number of charter schools to be served in the first two years of the grant award to be high and that the ED made an adjustment to what they considered a "reasonable" estimate. The ED also stated that the $9.2 million from FY

Date	Subject
	2010–11 that was to be tracked separately and spent in FY 2011–12 represented forward funding for 2011–12, not a deferral. In addition, the ED clarified that the reduction for FY 2012–13 represented an error, and that the FY 2012–13 award had not been reduced.
August 17, 2011	CDE staff, including Ms. Hunkapiller and Ms. Alcala, participated in a conference call with ED staff to request clarification about the August 11, 2011, grant award relative to Assurances 3A and 3B.
August 11, 2011	The CDE received a new PCSGP Grant Award Notification that included formal notice regarding lack of compliance with Assurances 3A and 3B. This award notification included special terms and conditions that required the CDE to respond by September 1, 2011, with either evidence of compliance or a written plan to comply by September 1, 2011. In addition, the terms specify that failure to comply or have a plan approved by the ED by January 30, 2012, will result in action, which may include but not necessarily be limited to, withholding of grant funds, placing the grant on a cost reimbursement system of payment, terminating the grant, or initiating a recovery of funds proceeding. The CDE received a revised PCSGP Grant Award Notification that included reduced award amounts for FYs 2010–11 and 2011–12 and formal notice regarding lack of compliance with Assurances 3A and 3B. The award notification contained a notification signed by the ED on July 29, 2011, that reduced the FY 2011–12 amount from $51,596,028 to $40,178,454 and a notification signed by the ED on August 4, 2011, that showed reduced the FY 2012–13 amount from $60,866,275 to $30,014,848.
June 14 and July 2011	The CDE staff, including Ms. Hunkapiller, and ED staff exchanged phone calls regarding CDE's efforts to influence charter renewal legislation to reflect Assurance 3B.
May 24, 2011	The ED responded via e-mail that the CSD May 23, 2011, response was partially compliant with Assurance 3A and noncompliant with Assurance 3B.
May 23, 2011	The CSD sent an e-mail to the ED responding Assurances 3A and 3B. This response provided further clarification regarding the State's accountability system and charter renewal and revocation law; newly enacted regulations regarding charter revocation; and pending renewal legislation that CDE was attempting to influence to reflect the assurances.
March 31, 2011	The ED replied via e-mail that the CSD's November 1, 2010, response to concerns with Assurances 3A and 3B was insufficient.
December 2010	Beth Hunkapiller, (Director, CDE CSD), attended a meeting for PCSGP state educational agency directors at the ED and discussed Assurances 3A and 3B with ED staff.
November 1, 2010	The CDE CSD sent a response letter regarding Assurances 3A and 3B to the ED. This letter described current law and regulation regarding charter authorization, renewal, and revocation as it pertained to the assurances.

Date	Subject
October 2010	The CDE was informed that California's authorization, renewal, and revocation laws were inadequate relative to Assurances 3A and 3B of the PCSGP application.
August 18, 2010	The CDE received the federal PCSGP grant award notification.

Letters sent from the California Department of Education Charter Schools Division on November 1, 2010, September 1, 2011, and October 17, 2011.

CALIFORNIA
DEPARTMENT OF
EDUCATION

JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

November 1, 2010

Sent via email and facsimile

Scott Pearson, Director
Charter Schools Program
Office of Innovation and Improvement
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Subject: Response to Post-Award Document and Charter School Grant Program Peer Reviewer Comments

Dear Mr. Pearson:

The California Department of Education (CDE) received peer reviewer comments for the state's Application for Grants under the Charter Schools Program (CSP). Following are the CDE's responses to the peer reviewer comments, as well as responses to CSP assurances 3A and 3B and California's revised project year one budget narrative.

Dissemination sub-grant information is not linked strongly enough to student academic performance.

California has a comprehensive accountability system that monitors the academic achievement of all public schools, including charter schools, in the state. The system is based on the state's Public Schools Accountability Act (PSAA) of 1999 and on the federal requirements established by the Elementary and Secondary Education Act (ESEA). The state's accountability system is used to determine a charter school's eligibility to apply for a Public Charter Schools Grant Program (PCSGP) Dissemination Grant.

California Law: California *Education Code* (*EC*) Section 47607 details the academic performance that a charter school must achieve to be eligible for renewal. The requirements include:

- Attaining its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

- Ranking in deciles 4 to 10 (statewide ranks range from 1 to 10 with ten being high), inclusive, on the API in the prior year or in two of the last three years.

- Ranking in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

API rankings are based on pupil achievement as measured by statewide assessments that are required for all pupils in grades two through eleven, including pupils in charter schools. Every school in the state receives a base and a growth API each year. The base API is calculated from the results of the statewide spring testing, while the growth API measures each school's academic achievement from one year to the next. The tests used for calculating the API assess pupils' achievement of the state's academic content standards with tests designed to assess pupil achievement for normally developing pupils, pupils with moderate disabilities, and pupils with significant cognitive disabilities.

EC Section 47605(b)(5)(B) requires that each school's charter include the measureable pupil outcomes identified for use by the charter school.

EC Section 47605(b)(5)(C) requires each school's charter to include the method by which pupil progress in meeting the pupil outcomes will be measured.

EC Section 47605(c)(1) requires charter schools to meet all statewide standards and conduct the pupil assessments...as applicable to pupils in noncharter public schools.

EC Section 52051.5 specifies that all references to schools for the Public Schools Accountability Act of 1999 shall include charter schools. Section 52055.57 identifies charter schools that are direct funded (receive all funding directly from the state rather than through an LEA) as LEAs for purposes of early warning programs and program improvement under the No Child Left Behind Act.

Federal Law: Federal law requires schools to meet Adequate Yearly Progress (AYP) criteria with annual targets that increase until 2013–14 when all schools, including charter schools, must have 100 percent of their pupils performing at proficient or above on statewide tests. Schools must meet four sets of performance requirements to make AYP: (1) percentage of students participating in statewide tests; (2) percentage of pupils scoring at proficient or above on statewide tests in English and mathematics; (3) meeting API growth target; and (4) meeting graduation rate for high schools. In addition to the requirement for all pupils, each numerically significant subgroup at a school also must meet the participation rate and percent proficient requirements.

Dissemination Grant Eligibility: California will prepare its Dissemination Grant Request for Applications (RFA) during spring 2011. California's PCSGP Dissemination Grants are designed to disseminate innovative and proven practices that are focused on closing the achievement gap and ensuring pupils' academic success in achieving state and national academic content standards. To be eligible to apply for a dissemination grant a charter school must have:

- Served pupils for at least three consecutive years,
- Demonstrated substantial progress in improving pupil academic achievement,
- Demonstrated high levels of parent satisfaction,
- Demonstrated the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school,
- Met the measureable pupil outcomes set forth in its charter,
- Demonstrated leadership in implementing the best practices to be disseminated,
- Attained its API growth target for at least two of the prior three years,
- Attained an API statewide ranking of 4 or higher,
- Attained an API similar schools ranking of 4 or higher,
- Met its AYP targets for at least two of the prior three years, and
- Not been identified for Program Improvement.

SEA's peer review process is unclear.

Charter developers applying for PCSGP funds must complete an online application. California then uses a three-tiered approach in evaluating the applications:

- A screening checklist is completed to determine if the application is complete and ready for scoring. If the application is not complete, the applicant will be contacted and offered technical assistance to provide the missing information. (A copy of the screening checklist is attached.)

- Each complete application is then assigned to two independent readers, Education Program Consultants in the Charter Schools Division, to read and score. The applications are scored using a 4-point rubric with scores assigned to the school's description of being a highly autonomous charter school, its public random drawing/lottery procedures, the school's approved charter, and a work plan that details the measureable objectives and activities to be funded from the grant. The school's approved charter is reviewed to ensure compliance with state law and the work plan is reviewed to determine the likelihood that the school will develop into a high quality charter school.

- If both readers score the four components as 3 or 4, the application is approved for receiving grant funding.

- If the two readers both assign one or more areas a score of 1 or 2, the application is denied grant funding. The applicant will be provided technical assistance, and the application may be revised and resubmitted.

- If the two readers have discrepant scores—the application would be approved for a grant based on one reader's scores and not approved based on the other reader's scores—the application will be forwarded to a third reader who is an administrator or developer of a high quality charter school in the state.

- The approval or disapproval of the application will be based on the score of the third reader. If the application is denied, the developer may receive technical assistance to revise and resubmit the application.

Copies of the screening checklist, charter scoring document, and final score sheet are attached.

How will California ensure that CSP SEA assurances will be met?

A. Assurance 3A: State law, regulations, or other policies in the State where the applicant is located require that each authorized charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that describes the obligations and responsibilities of the school and the public chartering agency; conduct annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency; and demonstrate improved student academic achievement.

Legally Binding Charter

EC Section 47605(b) details the procedures and processes that a chartering authority must follow when considering whether to approve or deny a charter petition, and also lays out the 16 elements that must be described in a "reasonably comprehensive" manner in a charter petition, as follows:

- A description of the educational program of the school

- The measurable pupil outcomes identified for use by the charter school

- The method by which pupil progress in meeting those pupil outcomes is to be measured
- The governance structure of the school, including processes to ensure parental involvement
- The qualifications to be met by individuals to be employed by the school
- Procedures to ensure health and safety of pupils and staff
- Means by which the school will achieve a racial and ethnic balance among its pupils
- Admission requirements
- The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority
- The procedures by which pupils can be suspended or expelled
- The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security
- The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools
- A description of the return rights of any employee of the school district upon leaving the employment of the school district to work in a charter school
- The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter
- A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school
- A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of

all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

Charter petitions in California are required to include a reasonably comprehensive description of all of the above elements in order to be approved to operate in the state. The approved petition charter serves as the legally-approved charter contract between the school and its authorizer. Further, the required 16 charter elements provide a comprehensive description of the obligations and responsibilities of the charter school and its authorizer. For example, a charter must include a reasonably comprehensive description of the measurable pupil outcomes it will meet for annual reviews or renewal (as specified in the charter); and in exchange, the charter authorizer is obligated to evaluate the identified pupil outcomes in the charter when making decisions about school operations, renewal, or other matters under an authorizer's purview.

California education code also describes the criteria, obligations, and responsibilities for charter schools and authorizers relating to, for example, reasonable inquiries to a charter school by its authorizer (*EC* Section 47604.3); the duties of a chartering authority (*EC* Section 47604.32); required annual reports by every charter school (*EC* Section 47604.33); and charter renewal and revocation (*EC* Section 47607).

Any charter school operating in California must also be assigned a charter school number. The number is assigned by the State Board of Education (SBE) following a thorough and comprehensive review of documentation, as detailed in state education code.

EC Section 47602 details the SBE process for assigning a number to each charter petition that it grants. The charter package for SBE review and numbering is detailed on the CDE Website at http://www.cde.ca.gov/sp/cs/re/chrterpkg.asp and includes the following documentation:

- Original charter petition
- Statements that the charter school will be nonsectarian, will not charge tuition, and will not discriminate
- Signed petition and signature pages
- Evidence of governing board public hearing (e.g., board minutes)
- Evidence of governing board approval of charter (e.g., board minutes)

- Information regarding potential effects on the district (administrative services, facilities, liability) and first year start-up costs, cash flow, and three year financial projections.

Prior to submission to the SBE, the CDE reviews the application for completeness. Any incomplete package is not forwarded to the SBE for numbering.

Annual Audits

EC Section 47605(b)(5) describes the 16 elements that must be addressed in the school's charter, one of which relates directly to annual audits. *EC* Section 47605(b)(5)(I) states that a charter petition shall include a reasonably comprehensive description of "[t]he manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority." The annual audits are available to the school's chartering authority pursuant to *EC* Section 47604.3.

Demonstrate Improved Academic Achievement

Please see the section below, "Renewal," regarding state law that requires charter schools to demonstrate improved academic achievement in order to be renewed, pursuant to *EC* Section 47607.

B. <u>Assurance 3B:</u> State law, regulations, or other policies in the State where the applicant is located require that authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA as the most important factor when determining whether to renew or revoke a school's charter.

EC Section 47607 stipulates the conditions under which the chartering authority may renew or revoke a school's charter.

Renewal

In accordance with *EC* Section 47607(b), a charter school must meet at least one of four criteria prior to receiving a charter renewal. Three of these criteria (tied to API growth targets and decile ranks) are described above. The fourth criterion is that the charter school's academic performance is greater than or equal to that of those schools that the students would otherwise be attending as well as of schools within the same district. This determination shall be made by the charter school's authorizer and be

CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

September 1, 2011

Stefan Huh, Director
Charter Schools Program
Office of Innovation and Improvement
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Mr. Huh:

Subject: Compliance with Assurances 3(A) and 3(B) of the Public Charter Schools Grant Program

The California Department of Education (CDE) believes that its charter schools and State charter authorizers have a demonstrated track record of success in boosting student learning and driving achievement. This letter is in response to recent communications between CDE and the United States Department of Education (ED) related to the State's implementation of the Public Charter Schools Grant Program (PCSGP).

It is CDE's understanding that the cuts to California's PCSGP grant are not a result of the State's failure to comply with assurances 3(A) and 3(B), but are instead based on other issues. In order to protect the State's right to due process, the State will respond to the cuts in the grant in separate correspondence. However, to the extent that ED believes that the State is out of compliance with assurance 3(A) and 3(B), CDE respectfully submits the following plan of action.

Assurance (3)(A) requires that (1) each charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency, (2) charter schools conduct annual, timely, and independent audits of the school's financial statements that are filed with the school's authorized public chartering agency, and (3) each charter school be required to demonstrate improved student achievement for all students. Assurance 3(B) requires that authorized public chartering agencies use increases in student academic achievement for all groups of students described in Elementary and Secondary Education Act (ESEA) Section 1111(b)(2)(C)(v) as the most important factor when determining to renew or revoke a school's charter.

Pursuant to our e-mail correspondence with our original ED program contact Richard Payton, we understand that ED considers CDE to be out of compliance with the last of the three factors listed in assurance 3(A) and the entire assurance 3(B). It is the opinion of ED that the State is in compliance with the first two parts of assurance 3(A).

Over the last several months, CDE has worked with ED to address these compliance issues and to identify current California statutory and regulatory requirements that address achievement of students in charter schools. Specifically, *EC* Section 47605(c)(1) requires that charter schools participate in all statewide pupil assessment programs and *EC* Section 47605(b)(5)(B) requires that charter schools identify measurable pupil outcomes that will be used by the charter school to demonstrate pupil achievement. In addition, California *EC* Section 47607(b) uses a comprehensive evaluation system that compares student achievement at each charter to minimum California Academic Performance Index growth targets and requires schools to achieve a decile ranking between 4 and 10 in order to be eligible for renewal. In addition, 5 *CCR* Section 11968.5 requires the CDE to identify and the State Superintendent of Public Instruction to review and recommend charter schools in the lowest performance deciles that have not shown adequate increases in academic achievement to the State Board of Education (SBE) for revocation.

However, it is CDE's understanding that ED considers California out of compliance because there is no explicit statutory or regulatory requirement that (1) each and every charter school demonstrate improved student academic achievement or (2) increases in academic achievement for all pupils be the primary factor in a renewal decisions. In addition, California's revocation regulations apply only to charter schools in the lowest deciles and not all charter schools. Therefore, ED has determined that the CDE is not in compliance with assurance 3(B).

Corrective Plan

In order to address ED's noncompliance findings, CDE plans to work with the SBE and the California State Legislature as follows:

1. **Legislation:** Legislative changes would need to be made to California *EC* sections 47605, 47605.6, and 47607 in order to make increases in achievement for all students the most important factor when considering approval, renewal, or revocation of a charter petition. The CDE's Legislative Affairs Division has already begun conversations with legislative staff about this issue and will continue working towards finalizing language that would be introduced as part of the Superintendent's 2012 legislative package. The Legislature returns from recess January 4, 2012, at which time legislation could be introduced. During the interim recess, staff from the Legislative Affairs Division will work towards

securing an author for this legislation and will work with the SBE, Governor, and stakeholder groups toward a legislative solution.

2. **Regulations:** At the September 7th and 8th meeting of the SBE, the CDE will recommend that the SBE direct the CDE to start the rulemaking process to revise 5 *CCR* Section 11968.5 to ensure that all charter schools are held accountable for the increased academic achievement of all pupils served. The SBE will consider this request as part of Item 6 on its agenda, which can be accessed on the CDE SBE Agenda Web page at http://www.cde.ca.gov/be/ag/ag/yr11/agenda201109.asp. If directed by the SBE to commence the rulemaking package to revise 5 *CCR* Section 11968.5, the CDE will convene a stakeholder group in October 2011 regarding proposed regulations that the CDE will bring to the SBE at its January 2012 meeting. If approved by the SBE at that meeting, the regulations package would be circulated for a mandatory 45-day public comment period, after which, depending on the comments received, the SBE could either approve the regulations at its March 2012 meeting and submit them to the California Office of Administrative Law to be enacted, or revise and recirculate the package for additional 15-day public comment periods until approved.

The CDE takes seriously the concerns regarding compliance with assurances 3(A) and 3(B). Because the SBE is not scheduled to meet until September 7, 2011, and because the current legislative session ends September 9, 2011, the CDE is unable to provide details until mid October regarding changes to regulation or law that may be made. The CDE commits to providing the ED with an update regarding its specific timelines and plans to initiate the necessary legislative and regulatory changes to comply with the special conditions placed on the PCSGP funds by October 15, 2011. If you have any questions or concerns about the elements of this plan, please contact Beth Hunkapiller, Director, Charter Schools Division, by phone at 916-322-6029 or by e-mail at bhunkapiller@cde.ca.gov.

Sincerely,

Lupita Cortez Alcalá
Deputy Superintendent
California Department of Education

LA:bg

cc: Sue Burr, Executive Director, California State Board of Education

CALIFORNIA
DEPARTMENT OF
EDUCATION

TOM TORLAKSON
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

October 17, 2011

Stefan Huh, Director
Charter Schools Program
Office of Innovation and Improvement
United States Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Dear Mr. Huh:

Subject: Compliance with Assurances 3(A) and 3(B) of the Public Charter Schools Grant Program

The California Department of Education (CDE) appreciates the United States Department of Education (ED's) efforts to clarify California's grant awards for Budget Periods 1 and 2 and to assist California in making timely awards to qualified 2011–12 Public Charter Schools Grant Program (PCSGP) sub-grantees by forward funding $31,355,794 to California from Budget Period 3.

This letter is in response to the August 11, 2011, Grant Award Notification letter, in which the ED required that the CDE must either provide evidence of state law, regulation, or other policy that addresses compliance with assurances 3A and 3B of the PCSGP application or provide a written plan of action to the DOE that addresses compliance by September 1, 2011.

The ED determined that California is out of compliance with the following excerpt from Assurance 3(A) and out of compliance with Assurance 3(B) that requires that –

3(A) Each authorized charter school in the State operate under a legally binding charter or performance contract between itself and the school's authorized public chartering agency that ... demonstrates improved student academic achievement; and

3(B) Authorized public chartering agencies use increases in student academic achievement for all groups of students described in section 1111(b)(2)(C)(v) of the ESEA, including economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency, as the most important factor when determining to renew or revoke a school's charter.

Over the last several months, the CDE has worked with the ED to address these compliance issues and to identify current California statutory and regulatory requirements that address achievement of students in charter schools. The CDE submitted a letter to the ED on September 1, 2011, describing these efforts and indicating that the CDE would provide an update to the ED after the California State Board of Education (SBE) held its September 2011 meeting and after the conclusion of the California legislative session.

In order to address the ED's findings, the CDE plans to work with the SBE and the California State Legislature as follows:

1. **Legislation:** Legislative changes will need to be made to California *EC* sections 47605, 47605.6, and 47607 in order to make increases in achievement for all students the most important factor when considering approval, renewal, or revocation of a charter petition. The SSPI is committed to sponsoring a bill that addresses Assurances (3)(A) and (3)(B). The Legislature returns from recess January 4, 2012, at which time legislation could be introduced. The CDE's Legislative Affairs Division has already begun conversations with legislative staff about this issue and will continue working towards finalizing language that would be introduced as part of the SSPI's 2012 legislative package. During the interim recess, staff from the Legislative Affairs Division will work towards securing an author for this legislation and will work with the SBE, Governor, and stakeholder groups toward a legislative solution.

2. **Regulations:** At the September 7th and 8th meeting of the SBE (SBE Agenda Web page at http://www.cde.ca.gov/be/ag/ag/yr11/agenda201109.asp), the SBE directed the CDE to collect stakeholder input from charter schools and authorizers prior to starting the rulemaking process to revise *5 CCR* Section 11968.5 to ensure that all charter schools are held accountable for the increased academic achievement of all pupils served. The SBE asked for a report on the collection of this input at its January 2012 meeting. The Advisory Commission on Charter Schools met September 28, 2011, to consider appropriate measures for initial charter petition approval, renewal, and revocation as part of Item 5 on its agenda.

If you have any questions or concerns about the elements of this plan, please contact me by phone at 916-322-6029 or by e-mail at bhunkapiller@cde.ca.gov.

Sincerely,

Beth Hunkapiller, Director
Charter Schools Division

BH:bg

bcc: Sue Burr, Executive Director, California State Board of Education
Richard Zeiger, Chief Deputy Superintendent, California Department of Education
Deborah V. H. Sigman, Deputy Superintendent, California Department of Education

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 15

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Hold a Public Hearing to Consider Portola Academy, which was denied by the Livermore Valley Joint Unified School District Board of Education and the Alameda County Office of Education.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE

On January 10, 2012, the Livermore Valley Joint Unified School District (LVJUSD) voted to deny the Portola Academy (PA) petition by a vote of 5 to 0. The Alameda County Board of Education (ACOE) voted to deny the petition on appeal by a vote of 6 to 0 on March 13, 2012.

Pursuant to California *Education Code* (*EC*) Section 47605(j), petitioners for a charter school that has been denied at the local level may petition the State Board of Education (SBE) for approval of the charter, subject to certain conditions. The PA petitioners submitted an appeal to the State Board of Education (SBE) on March 30, 2012.

RECOMMENDATION

California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing to deny the petition to establish the PA under the oversight of the SBE based on the CDE's finding pursuant to *EC* sections 47605(b)(1) and 47605(b)(5) and *California Code of Regulations*, Title 5 (5 *CCR)* 11967.5.1 that the petitioners are unlikely to successfully implement the program set forth in the petition.

Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) considered the PA petition at its June 14, 2012, meeting. By a vote of five to one, the ACCS voted to recommend that the SBE approve the petition to establish PA under the oversight of the SBE.

BRIEF HISTORY OF KEY ISSUES

The petitioners propose to serve 560 transitional kindergarten through grade eight students, giving weighted admission preference to those students who reside within a one-mile radius of the proposed school site. The student population in this targeted area reflects 64 percent Hispanic, 48 percent English learner (EL), 64 percent socioeconomically disadvantaged, and 15 percent students with disabilities.

In considering the PA charter petition, the CDE reviewed the following:

- The PA petition and appendixes (available as Attachments 3 and 4 of Agenda Item 4 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp)

- PA budget information

- Educational and demographic data of the schools where pupils would otherwise be required to attend (available as Attachment 2 of Agenda Item 4 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp)

- Board agendas, minutes, and findings from the LVJUSD and ACOE regarding the denial of the PA petition, along with the petitioners' responses (available as Attachment 6 of Agenda Item 4 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp)

The CDE finds that the PA charter petitioners are demonstrably unlikely to successfully implement the intended program, and the petition does not contain reasonably comprehensive descriptions of the 16 charter elements pursuant to *EC* Section 47605(b)(5) and 5 *CCR* 11967.5.1. The insufficient EL plan and concerns about the adequacy of school and pupil outcomes are substantive. The admissions policy does not meet state law. The financial plan is unsustainable. Material and technical amendments and additional assurances are required to make the petition compliant with all sections of *EC* Section 47605(b). See Attachment 1of Agenda Item 4 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp for detailed analysis.

Tri-Valley Learning Corporation (TVLC) currently operates two charter schools within Livermore Valley; both schools are currently authorized by the SBE. The petition submitted for this new charter school (PA) proposes to serve the diverse student populations in the Livermore Unified School District. However, the petition does not appear to give sufficient information to describe how it will meet the highly unique needs of the specific subgroup of students PA intends to enroll.

The CDE finds the following areas of concern and concludes that the petitioners will be demonstrably unlikely to successfully implement their intended school program.

- The PA petition does not provide sufficient information on how the school will serve the diverse and underserved student population it proposes to educate. The proposed educational program purports to implement markedly similar learning strategies for low achieving, high achieving, and EL students without acknowledging and considering the uniquely different needs of these populations, requiring a clear plan to be successful.
    - The descriptions of the English Language Development (ELD) model lack sufficient information. The EL reclassification procedure does not meet requirements as defined in *EC* Section 313.
    - While the petition states that the school may provide a dual language immersion program, the petitioners fail to provide sufficient detail, curricular descriptions, or a plan for implementation.
- The PA's financial plan is overly optimistic and unsustainable.
    - PA overstated state aid revenue by approximately $567,000 in Year 1 which potentially creates negative ending cash balances of $305,000 and $97,000 in Years 1 and 2 respectively.
    - The proposed budget and cash flow will not be sustainable if PA fails to obtain the Public Charter Schools Grant Program funding; the grant award process is competitive and not guaranteed.
- The PA petition did not provide the required number of signatures specified in state law. *EC* Section 47605(a)(1)(A) requires the petition has been signed by a number of parents or legal guardians that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation and *EC* Section 47605(a)(3) requires a petition shall include a prominent statement that a signature on the petition means that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition. The statement provided by the Portola Academy representative who collected community signatures validated

that the petitioners did not follow the prescribed process as the charter petition was not available for the signers to review.

- The PA petition describes student outcomes and school goals which are subjective, non-committal, not measurable, and unlikely to be attained. The petition lacks a clear metric to facilitate the objective assessment of academic growth and performance.

- The proposed PA admission procedure does not meet the requirements of state law.

- PA's expulsion policy does not meet state law.

The Student Policy of Portola Academy Charter School and the Conditions of State Board of Education Authorization and Operation are also available as Attachments 5 and 7 of Agenda Item 4 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Currently, 33 charter schools operate under SBE authorization as follows:

- Three statewide benefit charters, operating a total of 13 schools
- One countywide benefit charter
- Nineteen charter schools, authorized on appeal after local or county denial

The SBE delegates oversight duties of these schools to the CDE.

FISCAL ANALYSIS (AS APPROPRIATE)

No fiscal analysis is applicable.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Hold a Public Hearing to Consider the Schools and Communities for Advanced Learning Experience Charter Petition, which was denied by the Rialto Unified School District Board of Education and the San Bernardino County Board of Education.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE

On May 11, 2011, the Rialto Unified School District Board of Education (Rialto USD) voted to deny the Schools and Communities for Advanced Learning Experience (SCALE) charter petition by a vote of 4 to 0. On January 9, 2012, the San Bernardino County Board of Education (SBCBE) voted to deny the SCALE charter petition by a vote of 5 to 0.

Pursuant to California *Education Code* (*EC*) Section 47605(j), petitioners for a charter school that has been denied at the local level may petition the State Board of Education (SBE) for approval of the charter, subject to certain conditions.

RECOMMENDATION

California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing to deny the petition to establish the SCALE charter school under the oversight of the SBE based on the CDE's finding pursuant to *EC* sections 47605(b)(1), 47605(b)(2), and 47605(b)(5) as well as *California Code of Regulations,* Title 5 (5 *CCR)* Section 11967.5 that the petitioners are unlikely to successfully implement the program set forth in the petition.

Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) considered the SCALE petition at its June 14, 2012 meeting. By a vote of five to one the ACCS voted to accept the CDE recommendation to deny the petition to establish SCALE charter school under the oversight of the SBE.

BRIEF HISTORY OF KEY ISSUES

By its third year of operation, the SCALE charter school proposes to serve 375 middle school pupils in Rialto, which is located in the southeastern area of San Bernardino County. The targeted population reflects the ethnic, cultural, and economic diversity of the area where the school proposes to locate. Data regarding academic and demographic information for schools where students would otherwise most likely attend is available as Attachment 2 of Agenda Item 3 on the SBE June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp.

In considering the SCALE charter petition, the CDE reviewed the following:

- The SCALE petition
- SCALE budget information
- Educational and demographic data of the schools where pupils would otherwise be required to attend
- Board agendas, minutes, and findings from the Rialto USD and SBCBE regarding the denial of the SCALE petition, along with the petitioners' responses (available as Attachment 4 of Agenda Item 3 on the SBE June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp)

The CDE finds that the SCALE charter petitioners are demonstrably unlikely to successfully implement the intended program, and the petition does not contain reasonably comprehensive descriptions of the 16 charter elements pursuant to *EC* Section 47605(b)(5) and 5 *CCR* 11967.5.1. The SCALE petition does not present a reasonably comprehensive description of how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels, EL, and pupils with disabilities. The petitioners did not demonstrate an adequate understanding of the legal responsibilities for special education or how the school would meet those responsibilities. Furthermore, the CDE finds the SCALE budget and cash flow reports to be unsustainable. See Attachment 1 of Agenda Item 3 on the SBE June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp for a detailed analysis.

The CDE finds the following areas of deficiencies within the petition:

The SCALE charter petition, available as Attachment 3 of Agenda Item 3 on the SBE June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp, does not describe an educational program that is likely to be of educational benefit to the pupils who attend, specifically pupils who are achieving below or above expected levels, nor does it adequately describe the program of services for English learners (EL) and special education students.

- The petition does not specify the process the school will adopt to identify students who qualify for special education and related services.

- The main component of an educational program for ELs, the English Language Development content area, is missing from the regular core classroom instruction. The petitioners' plan to offer Structured English Immersion outside of the school day as well as the proposed EL reclassification process does not meet legal requirements as provided in *EC* sections 305–306, 310, 313, 48985, 60615 and 5 *CCR* sections 11301-11302, and 11308-11309. While the petitioners propose to offer various types of bilingual program options in the future, the programs and the corresponding components are not clearly articulated.

- The proposed SCALE admission procedure does not meet state law.

SCALE submitted five-year projections for budget and cash flow. Upon review, CDE staff has noted the following concerns that indicate the school operations do not appear to be sustainable and that petitioners lack fiscal capacity to implement the educational program with understated expenditures of up to $2,200,000 during the proposed five year term of the charter.

- The most significant concerns with the SCALE financial projections are noted on the cash flow statement. Specifically, the school identifies negative cash for 6 of 12 months in Year 2, and 7 of 12 months in Year 3 with no explanation of how it intends to meet monthly financial obligations such as payroll and facility rent/lease payments. In addition, the cash flow does not accurately project State apportionment deferrals or the Special Advance Apportionments for Newly Operational Charter Schools that have not changed in recent years. With respect to the Public Charter Schools Grant Program (PCSGP), the cash flow assumes receipt of funds in the start up year which is not guaranteed. Cash flow in Years 1 and 2 also relies on PCSGP revenue disbursed as one payment at the beginning of each year, even though actual disbursements are made on a quarterly basis.

- The various expenditures, explained in more detailed below, appear to be understated in estimated total amounts ranging from $153,000 in Year 1 to $440,000 in Year 3. While the impact does not result in a negative fund balance

on the budget, the result raises serious concerns about the cash flow as well as overall budgeting expertise at the school.

- Charter School Facility Grant revenue appears to be budgeted appropriately; however, if Prop 39 facilities are obtained from the district, as described on page 138 of the charter petition, the school would no longer be eligible for annual funding budgeted at $80,000 in Year 1 and increasing to $180,000 in Year 5. When combined with understated expenditures, the reduction to the school's ending balance could increase to approximately $213,000 in Year 1 and up to $620,000 in Year 3.

- Special Education encroachment budgeted at $100 per student enrolled appears to be understated. The school does not budget for any revenue, however, details provided on page 56 of the charter petition indicate that per Memorandum of Understanding, the district would retain all state and federal funding allocated to charter school students. Increasing the encroachment rate to $300 per student would increase expenditures by $25,000 in Year 1 up to $75,000 in Year 5.

- The following are examples of expenditure areas that may be understated:

    - Teacher Salaries in Years 2 and 3
      Average teacher salaries are budgeted at approximately $46,000 in Year 1, however, this average drops to approximately $43,000 in Year 2 and $42,000 in Year 3. This appears to result in understated expenditures of $39,000 and $100,000 respectively.

    - Special Education
      As noted above, encroachment budgeted at $100 per student appears to be understated.

    - Food Service
      Revenues are budgeted each year beginning at $60,000 in Year 1 up to $180,000 in Year 5, whereas expenditures of $10k are budgeted in each year of operation. The CDE would expect to see revenues and expenditures budgeted at approximately the same level. This appears to result in understated revenues of approximately $50,000 in Year 1 up to $170,000 in Year 5.

    - Professional and Consulting Services and Operating Expenditures
      It appears that budgeted expenditures in this area may be understated by approximately $44,000–$54,000 in Year 1 and would increase annually. This line item is budgeted at approximately $10,000 in the Startup Year and approximately $6,000 in each of Years 1 through 5. However, CDE would expect to see a minimum of $40,000–$50,000 in Year 1 with annual increases in direct relation to growth in average daily attendance.

- Books and Supplies
  While it appears that sufficient funds are budgeted for Year 1, expenditures budgeted for textbooks and instructional materials in Years 2 and 3 appear to be understated for the projected increase in enrollment.

- Charter School Revolving Loan
  Revolving Loan Fund proceeds are reasonably budgeted at $200,000. However, repayment of the loan is budgeted at $45,000 per year for four years. Actual repayments on an annual basis would be $50,000. This results in understated expenditures of approximately $5,000 per year.

- Other observations that raise concerns about the school's fiscal capacity include a lack of budget assumptions or budget narrative, no revenue budgeted for in-lieu property taxes, and a cost-of-living adjustment (COLA) of 1 percent applied to revenues when COLA has not been funded since 2007–08.

- Staffing levels and expenditures budgeted for administrators appear to be high and outside the normal range of expenditure typically seen by CDE staff.

Based on the analysis above, the CDE concludes the proposed financial plan is unsustainable.

The Conditions of State Board of Education Authorization and Operation are also available as Attachment 5 of Agenda Item 3 on the ACCS June 14, 2012, Meeting Notice for the ACCS Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Currently, 33 charter schools operate under SBE authorization as follows:

- Three statewide benefit charters, operating a total of 13 schools
- One countywide benefit charter
- Nineteen charter schools, authorized on appeal after local or county denial

The SBE delegates oversight duties of these schools to the CDE.

FISCAL ANALYSIS (AS APPROPRIATE)

No fiscal analysis is applicable.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Long Valley Charter School: Hold a Public Hearing to Consider a Material Revision of the Charter.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUES

On May 9, 2012, the State Board of Education (SBE) considered a material revision from Long Valley Charter School (LVCS), in part to remedy the violations detailed in the Notice of Violation issued on March 8, 2012. After extensive SBE discussion, the SBE decided that LVCS needed to resolve the facilities, enrollment, and teacher qualification issues prior to the SBE considering the material revision. The SBE members agreed that this item would not go back to the Advisory Commission on Charter Schools in June 2012, but rather would be considered by the SBE at the July 2012 SBE meeting. The motion made by the SBE required that on or before June 21, 2012, LVCS include all of the following in their material revision:

1. LVCS will operate no more than three resource centers and impose a cap of a total 500 students with 25 percent variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with California Department of Education's (CDE) requirements for documenting compliance with this enrollment cap.

2. LVCS will present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June 21, 2012, deadline, the charter must include evidence of a site secured with a move-in date of no later than September 1, 2012.

3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will meet the highly qualified teacher (HQT) requirements.

4. On or before the June 21, 2012, deadline, LVCS shall provide evidence of full compliance with all Americans with Disabilities Act (ADA) issues identified in the CDE March 2012 staff report.

This item reflects the CDE's review and analysis of the LVCS response to the motion at the May 2012 meeting and the LVCS material revision.

RECOMMENDATION

California Department of Education Recommendation
Pursuant to California *Education Code (EC)* Section 47607(2), material revisions are governed by the standards and criteria in *EC* Section 47605. The CDE staff reviewed and analyzed the revised LVCS charter petition. The CDE staff analysis and LVCS revised charter petition is available as Attachments 3–6 of Agenda Item 7 on the SBE Agenda for May 2012 Web page located at http://www.cde.ca.gov/be/ag/ag/yr12/agenda201205.asp.

Although there are still outstanding issues, the CDE recognizes the efforts of LVCS to address and comply with the issues regarding facilities, enrollment, and teacher qualification that were previously identified.

The CDE recommends that the SBE hold a public hearing and conditionally approve the LVCS material revision.

1. All of the following conditions must be met prior to the use of the proposed facilities by LVCS to serve students:

    a. LVCS will close the three originally proposed resource center facilities by following the closing procedures in the Memorandum of Understanding:

        i. Cottonwood Resource Center, 3308 Main Street, Cottonwood, CA 96022

        ii. Susanville Resource Center, 900 Main Street, Susanville, CA 96137

        iii. Portola Resource Center, 280 East Sierra Street, Portola, CA 96122

    b. LVCS will provide a letter to the CDE and SBE office verifying that the above resource center facilities are closed.

CDE will conduct pre-opening site visits of the newly proposed sites in Cottonwood located at: East Cottonwood Elementary School, 3425 Brush Street, Cottonwood, CA 96022; and in Susanville located at: 623 and 629 Main Street, Susanville, CA 96130.

2. LVCS must clear any findings prior to using these proposed facilities to serve students.

    a. LVCS will provide a copy of the signed lease agreement for the Cottonwood site located at 3425 Brush Street, Cottonwood, CA 96022

    b. LVCS will provide "E" (Education) occupancy certificates for the Susanville site located at 623 and 629 Main Street, Susanville, CA 96130 and the Cottonwood site located at 3425 Brush Street, Cottonwood, CA 96022

The CDE will provide a letter to LVCS once it has determined that all conditions have been met. Upon receipt of the approval letter, LVCS may begin serving students at the two new facilities.

3. Furthermore, prior to the beginning of 2012–13 school year, LVCS will provide a plan to the CDE on how it will address the programmatic findings identified in the CDE staff review, which is available as Attachment 2 of Agenda Item 7 on the SBE Agenda for May 2012 Web page located at http://www.cde.ca.gov/be/ag/ag/yr12/agenda201205.asp.

BRIEF HISTORY OF KEY ISSUES

The LVCS charter petition was approved with an enrollment of 272 students. Per the Memorandum of Understanding (MOU) between the SBE and LVCS, changes to the charter deemed to be material amendments may not be made without prior SBE approval. The SBE determined LVCS was not fulfilling the conditions, standards, and/or procedures set forth in their charter petition and issued a Notice of Violation on March 8, 2012.

The SBE is aware of a number of issues indicating that LVCS may have committed material violations of the conditions, standards, and procedures set forth in the charter. These violations are detailed in the Notice of Violation issued on March 8, 2012, and are available as Attachment 1 of Agenda Item 7 on the SBE Agenda for May 2012 Web page located at http://www.cde.ca.gov/be/ag/ag/yr12/agenda201205.asp.

On May 9, 2012, the SBE considered a material revision from LVCS, in part to remedy the violations detailed in the Notice of Violation issued on March 8, 2012. After extensive discussion, the SBE made a motion requesting LVCS to resolve the facilities, enrollment and teacher qualification issues prior to considering the material revision. CDE staff has continued to provide ongoing technical assistance to the LVCS staff regarding the identified areas of concern.

In terms of the material revision request, the CDE found the most significant changes include:

- **Addition of Resource Centers** – The original LVCS petition did not identify any resource centers. The independent study program relied on the site-based resources in Doyle. The revised LVCS petition requests the addition of three resource centers that are currently in operation, including two that are outside Lassen County, the county of the site-based location in Doyle. The petition also proposes to open a fourth resource center, location not specified.

- **Enrollment** – The original LVCS petition authorized LVCS to serve up to 272 students in kindergarten through grade twelve (K-12). The revised petition would authorize LVCS to serve up to 600 students in grades K-12.

- **Governance Structure** – The school administration described in the original LVCS petition identified one education director and one financial director. The revised LVCS petition omits the financial director, and adds two assistant directors and back office support.

Review and Analysis of LVCS Response to SBE Motion May 2012

LVCS submitted a response to the CDE on June 21, 2012. In their response, LVCS provided the CDE with a plan to ensure teacher qualification and a commitment to provide the CDE with monthly enrollment reports. Since LVCS was unable to resolve the ADA issues at the original proposed Cottonwood and Susanville sites, LVCS plans to relocate each of these resource centers to new locations. They have obtained two new sites. LVCS provided a lease agreement for Susanville and a letter regarding a tentative agreement for the Cottonwood location from the Superintendent of Cottonwood Union School District to lease three handicapped accessible classrooms and bathrooms at East Cottonwood Elementary School. In the documents submitted, LVCS intends to remain at the current Portola Resource Center facility. LVCS provided a copy of the certificate of occupancy Group "B" and evidence of compliance with the ADA issues identified in the CDE staff report. The CDE finds the Group B occupancy certificate is not appropriate. The California *Building Standards Code* requires an Educational Group E certificate of occupancy for buildings that are used for educational purposes.

The CDE staff met with school administration and assisted in developing an HQT plan on May 23, 2012. The CDE staff reviewed and analyzed the materials submitted on June 21, 2012, in the response from LVCS. The following represents a brief summary of the CDE staff analysis:

1. LVCS agreed to provide monthly enrollment reports as a reporting mechanism effective immediately. The CDE staff has not yet received a monthly enrollment report for analysis.

2. A certificate for Business Group B certificate of occupancy was provided for the Portola site. Pursuant to *EC* 47610, charter schools are required to comply with the California *Building Standards Code*. *California Code of Regulations*, Title 5 Section 14001 sets forth minimum standards for school facilities and housing and requires that educational facilities be designed to meet federal, state and local statutory requirements for structure, fire and public safety (e.g., the California *Building Standards Code*). The 2010 California *Building Standards Code*, Title 24, Part 2, Chapter 1, Section 1.1.2 provides that "[t]he purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations." The legislature has acknowledged the importance of the *Building Standards Code* by expressly excluding the California *Building Standards Code* from those laws of which

charter schools are generally exempt. *EC* Section 47610. Section 305 of the *Building Standards Code* states that Educational Group E occupancy includes, among others, the use of a building or structure, or a portion thereof, by more than six persons at any one time for educational purposes through the 12th grade." Since the Portola Resource Center facility is used by more than six persons at any one time for educational purposes through the twelfth grade, an educational Group E certificate of occupancy is required. Therefore, CDE believes LVCS has not met the requirements of the SBE motion.

3. LVCS provided a HQT plan reflecting the collaborative efforts with the CDE staff. LVCS's material revision does include a clear, district, and unique plan for each resource center; and that each teacher at each site will meet the requirements of the HQT. The CDE finds the LVCS HQT plan meets the requirements of the motion set forth by the SBE.

4. LVCS was unable to resolve the ADA issues at the originally proposed Susanville and Cottonwood facilities. The landlord of the Susanville site was unwilling to make or allow LVCS to make the structural alterations required to bring the restrooms into compliance with the ADA. As an interim measure, an ADA accessible Port-o-Potty has been installed at the 900 Main Street site in Susanville. LVCS has obtained alternative facilities for the Susanville resource center location and has provided a copy of a lease agreement for the proposed new site. The new Susanville structure requires modifications to meet ADA requirements. Construction work was scheduled to begin on June 21, 2012.

   LVCS intends to vacate the current Cottonwood site and, therefore, has not pursued changes to make the site ADA compliant. LVCS provided a letter from the Cottonwood Unified School District (CUSD) Superintendent indicating a tentative agreement with CUSD to lease three handicapped accessible classrooms and bathrooms at East Cottonwood Elementary School. The CUSD board is scheduled to meet on July 17, 2012. The proposed lease is on the agenda to be discussed.

   Until the relocation is complete and pre-opening visits are conducted, the CDE is unable to verify if the Susanville and Cottonwood facilities will be ADA compliant and have the appropriate certificates of occupancy.

   LVCS provided evidence of complying with the ADA issues identified at the Portola site in the CDE March 2012 staff report.

Review and Analysis of the Material Revision to the LVCS Petition

The LVCS material revision submitted for the May 9, 2012, SBE meeting was modified by LVCS to address the SBE motion and resubmitted to the CDE on June 21, 2012. Specifically the revisions to the petition make reference to the HQT plan and adjust enrollment growth plans. This revised petition was submitted to the CDE on June 21, 2012. LVCS did not revise their material revision to address the CDE programmatic

concerns identified in the CDE staff review, which was provided at the May 9, 2012 SBE meeting.

The following is a summary of the programmatic concerns:

Sound Educational Practice

The LVCS charter petition is not consistent with sound educational practice. The LVCS petition has no description of the criteria used to identify low or high achieving students. There is no criteria that triggers English learner (EL) students to be reclassified, no description of a plan to monitor reclassified EL students and no detail on annual benchmark goals for EL students. LVCS is in the process of acquiring approval of their high school a-g courses and attaining their Western Association of Schools and Colleges (WASC) accreditation renewal, but as of this review, they have not received approval.

Description of Educational Program

The petition does not present a reasonably comprehensive description of the educational program. The LVCS petition lacks criteria to define what constitutes a low achieving student or high achieving student. There is no criteria that triggers EL students to be reclassified, no description of a plan to monitor reclassified EL students and no detail on annual benchmark goals for EL students.

Measureable Pupil Outcomes

The LVCS petition does not present a reasonably comprehensive description of measurable pupil outcomes. The LVCS charter renewal petition contains descriptions of student skills that reflect the school's educational objectives; however, the skills which reflect the school's educational objectives are not measurable.

Academically Low Achieving Pupils

The LVCS charter petition does not demonstrate the capability of providing comprehensive learning experiences to pupils identified by the petitioners as academically low achieving. In the last five years, LVCS has decreased 18 points in their Academic Performance Index (API). Additionally, LVCS did not meet their API goal during the 2010–11 school year.

Therefore CDE is recommending LVCS submit plans to address each programmatic finding prior to the start of the 2012-13 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION ACTION AND DISCUSSION

The SBE did not take action at its May 9, 2012, meeting regarding the LVCS material revision.

A Notice of Violation was issued by the SBE to LVCS on March 8, 2012. The Notice of Violation has expired since no action was taken at the May 2012 meeting.

On July 14, 2010, the SBE approved the LVCS charter petition on appeal.

FISCAL ANALYSIS (AS APPROPRIATE)

Operation of LVCS, per se, has essentially no fiscal impact on the state as a whole. If affected students were not being served at LVCS, they would most likely be served at another public school. The CDE receives approximately one percent of LVCS's general purpose and categorical program revenues for CDE's oversight activities.

ATTACHMENTS

Attachment 1: Long Valley Charter School Response to State Board of Education Motion (123 Pages)

Attachment 2: California Department of Education Charter School Response Analysis (4 Pages)

California Department of Education Charter School Response Analysis

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
1. Long Valley Charter School (LVCS) will operate no more than 3 resources centers and impose a cap of a total 500 students with 25% variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with the California Department of Education's (CDE) requirements for documenting compliance with this enrollment cap.	The CDE does not currently have a collection and reporting mechanism to demonstrate compliance with the enrollment cap pursuant to the memorandum of understanding. However, the CDE is recommending that monthly enrollment reports by site are provided, effective immediately.	LVCS commits to providing the CDE monthly enrollment reports by site effective immediately.	Yes	The plan sent to the CDE is acceptable.
2. LVCS will present the CDE and State Board of Education staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.	For each LVCS resource center, provide an appropriate certificate of occupancy. Evidence of a site secured will include a dated and signed lease with an appropriate certificate of occupancy.	**LVCS Resource Centers** **Portola** B occupancy use permit was submitted as Exhibit B in their response. **Cottonwood** Due to unresolved ADA issues LVCS intends relocate. LVCS stated they intend to lease three classrooms on a school site owned by Cottonwood Union School District (USD).	No **Pending** Cottonwood USD School Board approval, appropriate certificate of occupancy	**Portola** The CDE finds a B occupancy inappropriate. **Cottonwood** A lease for the alternative facility will be considered by the Cottonwood USD School Board at the July 17, 2012 meeting.

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
		Susanville Due to unresolved ADA issues LVCS intends relocate. The new facility will require construction to get up to code. Construction was scheduled to begin June 21, 2012. The lease is effective August 1, 2012.	and CDE pre-opening site inspection **Pending** appropriate certificate of occupancy and approval from the CDE pre-opening site inspection	**Susanville** The alternative facility is contingent on local planning commission board approval scheduled for July 10, 2012. A signed lease for the alternative facility was submitted with an effective date of August 1, 2012.
3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will meet the requirements of highly qualified teacher (HQT).	Include the plan developed with the CDE on May 23, 2012 as part of the material revision.	The revised LVCS petition contains reference to Appendix F, as part of the material revision. The plan was developed with CDE staff on May 23, 2012. The plan, which is broken down by each resource center, calls for one staff member to complete Tier I and Tier II VPSS and four staff members to take and pass applicable sections of the CSET. These staff members have three years from placement to meet NCLB	Yes	The CDE finds the HQT plan acceptable.

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
		standards		
4. On or before the June deadline, LVCS shall provide evidence of full compliance with all Americans with Disabilities Act (ADA) issues identified in the CDE's report.	The CDE follow-up site inspections reflect changes to the facilities to comply with the ADA issues identified in the CDE report.	**LVCS Resource Centers** **Portola** LVCS indicated Braille signage has been installed and photographs were submitted as Exhibit I in their response binder. **Cottonwood** LVCS plans to relocate from this facility. **Susanville** LVCS plans to relocate from this facility. LVCS indicated that they have a Port-O-Potty that is ADA compliant for use during the summer. Construction is set to begin June 21, 2012, to correct ADA issues at new site.	Yes **Pending** **Pending**	**Portola** LVCS provided evidence of complying with the Braille signage issues identified in the CDE staff report. **Cottonwood** The CDE is unable to determine if the new facility will be ADA compliant. The CDE plans to verify ADA compliance with a pre-opening site visit. **Susanville** The CDE is unable to determine if the new facility will be ADA compliant. The CDE plans to verify ADA compliance with a pre-opening site visit.

Programmatic Findings from the CDE Review and Analysis of the LVCS Material Revision		
Finding	Summary of Concern	Suggested Corrective Action
Sound Educational Practice	• Inadequate plan for low or high achieving students • Inadequate plan for English Learner (EL) students • Need to finalize high school a-g course approval • Complete WASC renewal	• Develop, follow and provide written plan of the criteria to be used to identify low achieving and high achieving students • Develop, follow and provide written criteria that will trigger EL students to be reclassified and monitored after reclassification • Provide written detail on the annual benchmark goals for EL students • Finalize a-g course approval • Remedy any concern raised in the WASC process that would prevent accreditation of LVCS and share WASC report with CDE staff
Description of Educational Program	• Insufficient detail provided regarding educational program, particularly for low achieving, high achieving and EL students	Develop and implement a written plan to identify and address the specific needs of EL students, low achieving students and high achieving students
Measurable Pupil Outcomes	• Educational objectives are not measurable	Develop, monitor and provide a written plan of LVCS educational objectives that are able to be objectively measured
Academically Low Achieving Pupils	• Inadequate plan for providing comprehensive learning experiences for academically low achieving pupils	Develop and follow a written action plan to support the academic achievement of low achieving students at LVCS

Note: This document includes MS Word Track Changes notation to indicate content changes from a previous version submitted by Long Valley Charter School.

JUN 2 _ 2012
CHARTER SCHOOLS DIVISION

LAW OFFICES OF MIDDLETON, YOUNG & MINNEY, LLP

JUNE 21, 2012

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VIA: ELECTRONIC MAIL AND HAND DELIVERY

Julie Russell, Director
Bonnie Galloway, Administrator
Charter Schools Division
California Department of Education
1430 N Street
Sacramento, CA 95814

Re: Long Valley Charter School
Compliance with Material Revision Motion Items

Dear Ms. Russell and Ms. Galloway,

As you know, on May 9, 2012 the State Board of Education approved a motion as part of its consideration of Long Valley Charter School's request for a material revision, and required LVCS to include the following items in its material revision[1]:

1. LVCS will operate no more than 3 resources centers and impose a cap of a total 500 students with 25% variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with CDE's [California Department of Education's] requirements for documenting compliance with this enrollment cap.

2. LVCS will present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.

3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will be meet the requirements of HQT.

4. On or before the June deadline. LVCS shall provide evidence of full compliance with all ADA issues identified in the CDE's report.

[1] Language of motion as provided by General Counsel for the State Board of Education.

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3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will be meet the requirements of HQT.

4. On or before the June deadline, LVCS shall provide evidence of full compliance with all ADA issues identified in the CDE's report.

[1] Language of motion as provided by General Counsel for the State Board of Education.

The purpose of this letter is to demonstrate LVCS' compliance with the conditions described above. Each of the conditions has been restated below in italics with LVCS' response immediately following:

1. *LVCS will operate no more than 3 resources centers and impose a cap of a total 500 students with 25% variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with CDE's [California Department of Education's] requirements for documenting compliance with this enrollment cap.*

   Attached, as Exhibit A, please find the charter revision with the new language highlighted in yellow aligning with language above. None of the Appendices of the charter have been changed with the exception of adding an Appendix for the HQT plan (Appendix F) which is attached as an exhibit to this letter as Exhibit H. If you would like LVCS to send you all the appendices, please let us know.

   LVCS will provide the CDE with monthly enrollment reports by site, effective immediately.

2. *LVCS will present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.*

   LVCS would first like to take this opportunity to share with CDE staff that it has made substantial and comprehensive efforts to fully respond to this requirement in the month and a half since the SBE meeting and the result of those efforts for each location as described below.

   a. **Portola**

      Immediately after the SBE meeting on May 10, 2012, LVCS discussed with the City of Portola the Certificate of Occupancy issue; specifically that the City of Portola did not have a Certificate of Occupancy on file for the building located at E. Sierra Avenue because the building dated from approximately 1900. However, upon further investigation the City determined that it could reissue a Certificate of Occupancy confirming the B-occupancy status of the building.

      As a result, LVCS has received a Certificate of Occupancy from the City of Portola for its resource center located at 280 E. Sierra Avenue (please see attached, Exhibit B); the Certificate of Occupancy confirms the B-Use Occupancy previously approved by the City of Portola (please see attached, Exhibit C), the local building enforcement agency with jurisdiction over the area in which the

charter school facility is located. Therefore, LVCS has met the SBE's requirements for occupancy of the Portola site.

b. **Susanville**

As you may know, the Susanville resource center has an "E" occupancy and a Certificate of Occupancy (see attached with the Portola Certificate of Occupancy in Exhibit B). The CDE Site Inspection Checklist identified issues with access of the facility's restrooms.

Immediately after the SBE meeting on May 10, 2012, LVCS requested that the Landlord for its 900 Main Street facility determine the work that would be necessary to bring the restrooms into compliance with the ADA; the Landlord then worked with her contractor to make this determination. Approximately two weeks after LVCS' initial request, the Landlord contacted LVCS to say that she was not willing to do the necessary construction work, as it was cost prohibitive, nor would she allow LVCS to do the work.

Upon receiving this communication from the Landlord, LVCS immediately identified a realtor, and began looking for a new site. After looking at five different possible facilities, in the week of May 28, LVCS identified a potential resource center location at 629 Main Street in Susanville. LVCS worked with the owner of the property and his contractor to make a determination as to the changes that would be necessary to bring the restrooms in the facility into compliance with the ADA, and for an E-use occupancy. In addition, LVCS confirmed with the City of Susanville Planning Department that this location would require a Conditional Use Permit.

Upon determining that the necessary changes could be made, LVCS submitted an application for a Conditional Use Permit on June 8, just before the June 11th deadline for submitting an application in order to be added to the City Planning Commission's next meeting agenda for July 10th. Today the City sent the notices to members of the public, and LVCS has been told that unless the City receives a complaint, the City will be giving a recommendation to approve this permit. In addition, the City has provided LVCS with a letter documenting this fact, and noting the standard timeline for these kinds of applications (please see attached, as Exhibit D).

In addition, after the building owner submitted the necessary documentation of the planned improvements, the building owner received approval from the City of Susanville and pulled the permit to commence the necessary construction yesterday, June 20th. Construction is scheduled to commence today, and is anticipated to take approximately 4 weeks – LVCS is supposed to take occupancy August 1, 2012. Upon completion of the improvements, LVCS will receive a

Certificate of Occupancy verifying that the site complies with the California Building Code for an E-occupancy as enforced by the local building enforcement agency with jurisdiction over the area in which the charter school facility is located.

The lease for the new facility has also been signed, with a term commencing August 1, 2012 (please see attached, as Exhibit E). As a result, LVCS is providing the CDE with proof of a site secured with a move-in date prior to September 1, 2012.

In the meantime, while the new facility is being readied, the current Susanville resource center remains in use by staff. LVCS has installed an ADA-accessible Port-o-Potty at the 900 Main Street site. While school is no longer in session, this will ensure that if any students or other members of the public with disabilities come to the site to make inquiries while school is not in session, a handicap-accessible restrooms will be available to them. Attached as Exhibit F, please see a picture of the ADA compliant Port-o-Potty.

As such, the current resource center meets SBE requirements for occupancy as will the new one, the lease for which has already been signed.

C. Cottonwood

Immediately after the SBE meeting on May 10, 2012, LVCS reached out to the Shasta County Planning Department regarding whether it had made a determination about whether the facility could continue as a B-use occupancy. It was not until June 7 that the County provided correspondence indicating that it would require the 3306 and 2208 Main Street facility to comply with an E-use occupancy.

While LVCS was waiting for this correspondence from the County, it engaged in an extensive search for an alternative facility that would comply with an E-occupancy. LVCS considered and looked at approximately six potential sites, none of which were feasible as a result of the prohibitive costs to bring them to E-occupancy standards.

LVCS also entered into negotiations with the Cottonwood Union School District to lease a portion of the East Cottonwood school site, which the District just closed. Because it was not able to find an appropriate private facility, LVCS will be entering into a lease with the District for this space. At its meeting on June 19th, the Cottonwood Union District Board gave the Superintendent the authority to lease the space to LVCS, and to negotiate a lease with LVCS for this purpose. LVCS' Board met today and gave authority to Cindy Henry and Julia Knight to

negotiate the lease on behalf of LVCS; LVCS anticipates that the lease will be approved at the District Board's July 2012 meeting.

Attached as Exhibit G, please find a letter from the Cottonwood Unified School District Superintendent confirming that the parties have agreed that LVCS will lease the space at East Cottonwood School for the 2012-2013 school year, as evidence of a site secured with a move in date of no later than September 1, 2012. As soon as the lease is finalized, LVCS will provide the CDE with a copy.

3. *The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will be meet the requirements of HQT.*

The material revision contains a reference to Appendix F which is a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will meet the requirements of HQT. (See attached, Exhibit H).

4. *On or before the June deadline, LVCS shall provide evidence of full compliance with all ADA issues identified in the CDE's report.*

a. **Portola**

There were no ADA compliance issues identified at the Portola site other than Braille signage for the restrooms. Braille signage has been installed; photographs of the signage are attached as Exhibit I.

b. **Susanville**

The current resource center has been outfitted with a Port-O-Potty that is ADA compliant for use during the summer. As the Susanville site will be moving to a different building prior to starting the 2012-2013 school year, LVCS will be making improvements to the new location to comply with the ADA; this work will be approved by the City of Susanville Building Department, and proof of all clearances provided prior to opening the resource center and no later than September 1, 2012.

C. **Cottonwood**

As Cottonwood will no longer be occupying its facility on Main Street, no changes are being made to that site to bring it into compliance with the ADA. The facilities which the school is leasing from Cottonwood Unified School District include ADA-compliant restrooms (please see photographs attached as Exhibit J).

* * *

Please do not hesitate to contact me should you have any questions.

Sincerely,
LAW OFFICES OF
MIDDLETON, YOUNG & MINNEY, LLP

LISA A. CORR
ATTORNEY AT LAW

MYM

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Exhibit A

CHARTER

OF THE

LONG VALLEY CHARTER SCHOOL

A CALIFORNIA PUBLIC CHARTER SCHOOL

~~**Whereas** the Governing Board of the Fort Sage Unified School District received a valid charter petition on November 18, 2009 submitted pursuant to Education Code Section 47605, and~~

~~**Whereas** the Governing Board of the Fort Sage Unified School District, after holding a public hearing on December 16, 2009 and considering the level of parent and staff support, has determined that the applicants have assembled and presented a valid and meritorious charter petition for renewal of the Long Valley Charter School charter:~~

~~**Resolved** that the Governing Board of the Fort Sage Unified School District hereby approves and grants this charter petition renewal by a vote of ___ to ___ on January 20, 2010 for a period of five years beginning July 1, 2010.~~

~~**Be it further resolved** that this charter constitutes a binding contract upon the Fort Sage Unified School District and Long Valley Charter School.~~

~~**Witnessed**:~~

_____

~~President~~
~~Board of Trustees~~
~~Fort Sage Unified School District~~

Renewed July 2010
Material Revision February 2012

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AFFIRMATIONS/ASSURANCES

Long Valley Charter School (the "Charter School"):

- Shall meet all statewide standards and conduct the student assessments required, pursuant to Education Code Sections 60605 and 60851, and any other statewide standards authorized in statute, or student assessments applicable to students in non-charter public schools. [Ref. Education Code Section 47605(c)(1)]

- Shall be deemed the exclusive public school employer of the employees of Long Valley Charter School for purposes of the Educational Employment Relations Act. [Ref. Education Code Section 47605(b)(5)(O)]

- Shall be non-sectarian in its programs, admissions policies, employment practices, and all other operations. [Ref. Education Code Section 47605(d)(1)]

- Shall not charge tuition. [Ref. Education Code Section 47605(d)(1)]

- Shall admit all students who wish to attend Long Valley Charter School, and who submit a timely application, unless the Charter School receives a greater number of applications than there are spaces for students, in which case each application will be given equal chance of admission through a public random drawing process. Except as required by Education Code Sections 47605(d)(2) and 51747.3, admission to the Charter School shall not be determined according to the place of residence of the student or his or her parents within the State. Preference in the public random drawing shall be given as required by Education Code Section 47605(d)(2)(B). In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the Charter School in accordance with Education Code Section 47605(d)(2)(C). [Ref. Education Code Section 47605(d)(2)(A)-(B)]

- Shall not discriminate on the basis of the characteristics listed in Education Code Section 220 (actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code or association with an individual who has any of the aforementioned characteristics). [Ref. Education Code Section 47605(d)(1)]

- Shall adhere to all provisions of federal law related to students with disabilities including, but not limited to, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990 and the Individuals with Disabilities in Education Improvement Act of 2004.

- Shall meet all requirements for employment set forth in applicable provisions of law, including, but not limited to credentials, as necessary. [Ref. Title 5 California Code of Regulations Section 11967.5.1(f)(5)(C)]

- Shall ensure that teachers in the Charter School hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools are required to hold. As allowed by statute, flexibility will be given to non-core, non-college preparatory teachers. [Ref. California Education Code Section 47605(l)]

- Shall at all times maintain all necessary and appropriate insurance coverage.

- Shall, for each fiscal year, offer at a minimum, the number of minutes of instruction per grade level as required by Education Code Section 47612.5(a)(1)(A)-(D).

- If a pupil is expelled or leaves the Charter School without graduating or completing the school year for any reason, the Charter School shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card and health information. [Ref. California Education Code Section 47605(d)(3)]

- Will follow any and all other federal, state, and local laws and regulations that apply to Long Valley Charter School including but not limited to:

  - Long Valley Charter School shall maintain accurate and contemporaneous written records that document all pupil attendance and make these records available for audit and inspection.

  - Long Valley Charter School shall on a regular basis consult with its parents and teachers regarding the Charter School's education programs.

  - Long Valley Charter School shall comply with any jurisdictional limitations to locations of its facilities.

  - Long Valley Charter School shall comply with all laws establishing the minimum and maximum age for public school enrollment.

  - Long Valley Charter School shall comply with all applicable portions of the No Child Left Behind Act.

  - Long Valley Charter School shall comply with the Public Records Act.

  - Long Valley Charter School shall comply with the Family Educational Rights and Privacy Act.

  - Long Valley Charter School shall comply with the Ralph M. Brown Act.

  - Long Valley Charter School shall meet or exceed the legally required minimum number of school days.

- Long Valley Charter School shall comply with all laws related to independent study in charter schools including but not limited to Education Code Sections 47612.5 and 51745, *et seq.*

Material Revision

The Education Director, on behalf of the Board of Directors for the Long Valley Charter School, ("Charter School") hereby requests State Board approval of the enclosed material revisions. The material revisions to the Long Valley Charter School charter have been requested in accordance with the Memorandum of Understanding ("MOU") between the State Board of Education ("SBE") and the Long Valley Charter School to increase enrollment and operate resource centers beyond that which was described in the original charter. The Board of Directors for the Charter School acknowledged its violation of the MOU by failing to seek the approval of the SBE prior to increasing enrollment and opening its resource centers beyond that which was described in the original charter. The request for this material revision seeks to remedy the error made by the Charter School.

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As a necessary corollary to the material revision request, additional detail has been provided in the charter document, in the education program section, and elsewhere, to demonstrate to the State Board of Education and California Department of Education that Long Valley Charter School can successfully implement its requested expansion. The original charter approved by the State Board of Education in July 2010 was limited to that which had been submitted to the Fort Sage Unified School District's consideration prior to appeal and approval to the State Board of Education. As a condition to its approval in July 2010, the State Board of Education also required that technical amendments be made to the charter. Long Valley Charter School submitted those technical amendments in November 2010, but the State Board of Education did not approve them. As such, this document also includes the technical amendments required as a condition to the charter approval in July 2010. Finally, the revisions requested herein reflect revisions necessary to address concerns raised by the California Department of Education ("CDE") in response to the expansion of the Charter School and as raised by the Advisory Commission on Charter Schools ("ACCS") when they approved a recommendation that the Charter School be issued a Notice of Violation pursuant to Education Code Section 47607.

Long Valley Charter School recognizes that the reduction of enrollment and closure of resource centers is the most obvious cure for the concerns raised by the CDE and the ACCS. However, the Charter School seeks this material revision in lieu of reducing enrollment and closing resource centers for the following reasons:

1) the Charter School does not believe that disenrollment of pupils already enrolled in the school is a legal option and does not meet the best interest of the pupils enrolled in the Charter School.
2) the Charter School believes that the charter school is stronger both academically and fiscally due to the increased enrollment and additional resource centers serving its students;
3) the Charter School does not wish to impede the enrollment of students who choose to enroll in the Charter School who are otherwise legally eligible for enrollment;

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I. Educational Program

Governing Law: A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an 'educated person' in the 21st century, and how learning best occurs. The goals identified in the program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners. Education Code Section 47605(b)(5)(A)(i).

~~Each semester as high school students enroll in the Independent Study program, their education facilitator meets with the student and parent to inform them about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Parents are informed that the Charter School is accredited by the Western Association of Schools and Colleges.~~

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* *If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements. Education Code Section 47605(b)(5)(A)(ii).*

Introduction

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Long Valley Charter School provides a hybrid model of education offering both a classroom based facility for K-8 students in Doyle and a K-12 independent study/personalized learning approach in Lassen County and its contiguous counties. The charter school's purpose is to provide opportunities for teachers, parents, pupils, and community members to improve pupil learning; encourage the use of different and innovative teaching methods; and provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public
school system.

~~For the last five years, Long Valley Charter School has maintained an API exceeding 700. In three of those five years, the API has been 740 and above. LVCS has also met AYP for the last three years by encouraging all of our Second through Eleventh Grade students to participate in the State required standardized testing. By offering tutoring for CAHSEE test preparation, the CAHSEE passing rate has increased. In addition, a number of our students have had the honor of having works published by Creative Communications. Several of our high school students enter colleges and universities upon graduation each year.~~

~~Further, regarding the financial condition of Long Valley Charter School, with each audit the Charter School has complied with all state and federal laws and regulations and has continuously maintained adequate reserves.~~

Vision. It is our privilege, as an educational community, to help each child achieve his/her highest potential, to provide opportunities for self-discovery, and to prepare students for the challenges of a rapidly changing world.

Mission Statement. The mission of Long Valley Charter School is to equip rural students with the educational skills necessary in the 21st century – the ability to read, write, speak, and calculate with clarity and precision, and the ability to participate intelligently and responsibly in a global society. Long Valley Charter School offers alternative choices through site-based learning, independent study and distance learning, to enable students to acquire the knowledge necessary to make a difference in their lives. Long Valley Charter School provides a diverse, student-centered environment in which all students are held to high academic and behavioral standards. Students work in collaborative relationships, both within and outside the Charter School, and perform service to the community.

Our philosophy at Long Valley Charter School is: *"smart is not something you are, but something you get by working hard; knowledge is constructed."* This principle is based on the *Efficacy Approach*, which believes that all people have the ability, but not everyone knows how to get smarter. The first step is to believe you can get smarter, because if you believe you can, you will work hard. We help our students work hard, keep focused, stay committed, and develop alternative strategies when they encounter obstacles. We help them identify a goal, for example achieve a score of proficient on their ELA California Standards Test, and work diligently toward that target. If they don't learn the way we teach, we teach the way they learn.

People don't get smarter unless they are given the opportunity to challenge themselves in an area slightly beyond their current abilities and knowledge. This challenge area is beyond the "comfort zone" and before the area where the student becomes frustrated by too much challenge. Our responsibility is to supply opportunities for children to progressively increase their abilities through providing the challenges and knowledge necessary to succeed in life.

Students to be Served. Long Valley Charter School admission is open to any resident of California, grade levels K-8 for site-based study and any resident of Lassen County or the contiguous ~~adjacent~~ counties (Plumas, Sierra, Shasta and Modoc), grade levels K-12 for Independent Study. The Charter School began with its site-based program serving grades K-6, then evolved to include serving grades 7 and 8. Current enrollment at Long Valley Charter School for the Site-based program as of the conclusion of the Fall 2011 semester is ~~107~~ 97 students, and for the independent study program is ~~165~~ 375 students. Long Valley Charter School plans to expand its enrollment over its charter terms ~~as follows:~~ to no more than 500 students.[2] The Charter School shall prepare and submit to the CDE a monthly enrollment report separated by location documenting enrollment for each day that school is in session.

~~School Year~~	~~Weekly Average~~~~Maximum Enrollment~~[3]
~~2011-12~~	~~525~~

[2] Subject to the provisions of the MOU which allow the charter School's enrollment to vary from that cap by no more than 25%.
~~[3] Maximum enrollment on any given school day.~~

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~~2012-13~~	~~550~~
~~2013-14~~	~~575~~
~~2014-15~~	~~600~~

Long Valley Charter School operates in compliance with Education Code Section 47610(c), which requires the Charter School to comply with the minimum age for public school attendance and Education Code Section 47612 and Title 5 California Code of Regulations Section 11960 which establishes the maximum age for public school attendance~~. We will seek to reflect the general population group in the areas we serve.~~

Overall Program Goals.

The 21st Century Student. The Charter School believes that an educated person in the 21st century is someone who is a self-motivated, competent, and a lifelong learner. The learner has achieved the California State Standards in all core academics and is able to read, write, speak, and problem solve with clarity and precision. The learner is able to use digital technology and communication tools to access, manage, integrate, and evaluate information; to construct new knowledge; and to communicate effectively. The learner is able to think critically as well as to challenge and to question. Such a person understands the interrelationship of history, science, literature, and the arts. The student also has a thorough understanding of our national heritage. The learner has determined goals and direction for the future, while celebrating his or her strengths. It is the goal of this Charter to help instill in students a desire to use their acquired knowledge and skills to benefit their local community as well as the world in which they live. The Charter School will seek to develop in each student the following academic and personal skills: Curiosity, lifelong learning, clear oral and written communication, creative and critical thinking, logical thinking and the ability to make informed judgments, effective use of technology as a tool, adaptability to new situations and new information, problem solving and analytical skills, the ability to find, select, evaluate, organize, and use information from various sources, the ability to utilize small group work and learning centers, the ability to make easy and flexible connections among various disciplines of thought and learning methods, respecting others' individuality and creativity, as well as one's own, while seeking to work within teams to create common solutions.

As a by-product of developing these academic and personal skills, the Charter School believes that these skills develop the following personal habits and attitudes: Accepting responsibility for personal decisions and actions, academic honesty and the ability to face challenges with courage and integrity, a healthy lifestyle, empathy and courtesy for others and respect for differences among people and cultures, self-confidence and willingness to risk setbacks in order to learn, concentration and perseverance, self-motivation and competence, managing time in a responsible manner, seeking a fair share of workload, working cooperatively with others that includes the ability to listen, share opinions, negotiate, compromise, and help a group reach consensus.

Student Goal Plan. All students deserve the opportunity to develop interests, uncover hidden talents, experience satisfaction and accomplishments. Activity Based Assessments, Multiple Intelligence Assements, and True Colors Workshops are tools that may be used to help students discover more about themselves and their peers. Each student enrolled in the Charter School has

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an opportunity to develop a Student Goal Plan (SGP). This is an individually defined program created by the teacher, the parent and student, to set achievement goals for academic progress. The SGP is closely tied to measurable student outcomes and assessment procedures, and is periodically reviewed by the student, teacher, and parents. Students and parents receive assessment reports throughout the year, which indicate the students' progress toward the goals outlined in their SGP. Students also receive report cards appropriate for their grade level. Students in the grades K-3 site-based program receive Standards Based Report Cards. Students in the grades 4-8 site-based program receive report cards with traditional letter grades and the report card system is evolving to the Standards Based Report Cards. Independent study students receive grade appropriate report cards with traditional marks.

Community Outreach Program. The Community Outreach Program is designed to bring a wide variety of educational information to our students through multiple methods. Long Valley Charter School utilizes the community as a learning resource at the Charter School through visiting experts, field studies, mentors, and possibly student internships. The staff has developed partnerships with community colleges, universities, professional and humanities groups, and performing and visual arts groups to expose ~~the~~ students to career opportunities and cultural enrichment. Our purpose is to give ~~our~~ children the opportunity to dream about the multiple possibilities for their future.

Community Service Goals. Long Valley Charter School site based and Independent Study students have the opportunity to design and implement community service projects annually under the guidance of school staff and volunteers. This level of involvement with the community better prepares students for their roles as global citizens.

~~***Overall Program Goals and Base for the Vision***. Long Valley Charter School's goal is to develop students who are competent, self-motivated, life long learners. Students shall possess skills, habits and attitudes to be successful throughout life. By providing a vehicle for meaningful parental involvement, we bridge the gap between school and home. Parents are the essential link in improving education. Students observe first hand their parents and teachers working together to make a difference. Long Valley Charter School identifies an educated person as one who possesses the following:~~

- ~~Knowledge of and ability to demonstrate solid skills in reading, writing, and speaking.~~
- ~~A core of knowledge which includes cultural, mathematical and scientific literacy.~~
- ~~Ability to:~~
  - ~~Think logically, critically, and creatively~~
  - ~~Understand technology and its uses, and the ability to use technology as a tool~~
  - ~~Find, select, evaluate, organize, and use information from various sources~~
  - ~~Accept challenges and utilize opportunities~~
  - ~~Develop comprehensive communication skills~~
- ~~Knowledge of pertinent health issues and the development of physical fitness.~~

~~The personal qualities we will help students develop are:~~

- ~~Cooperation, responsibility, confidence and productivity~~
- ~~Concentration and perseverance~~

- ~~Curious and inquisitive minds~~
- ~~Honesty and courage (Trustworthiness)~~
- ~~Respect and empathy for others and their views~~
- ~~The ability to negotiate, compromise, and assist in finding group consensus (Fairness)~~
- ~~The ability to appreciate, respect, and enjoy the visual and performing arts.~~

~~Families choose the Long Valley Charter School for a variety of reasons, which include:~~

- ~~Enhanced educational opportunities~~
  - ~~Emphasis on technology as a tool~~
  - ~~Expanded cultural exposure through visual and performing arts~~
  - ~~Community Outreach program~~
- ~~Community involvement~~
- ~~A cooperative, cohesive teaching environment~~
- ~~Multi-age groupings to allow students to progress at their ability level~~
- ~~Desire to have more control over the educational process~~
- ~~Lack of challenge in the previous school experience~~
- ~~Family philosophy, personal beliefs, and values~~

The Charter School consults with parents and teachers on a regular basis regarding the Charter School's education programs as required by the Charter Schools Act. Students that are not meeting the desired pupil outcomes are offered formal support programs such as Response to Intervention services, Title I services, and informal support programs such as after school tutoring.

Teaching Methodology: How Learning Best Occurs.

The Charter School believes learning best occurs when a variety of modes and methods of instruction are implemented, so all students will be held to high academic and behavioral standards. Long Valley Charter School considers itself a collaborative sanctuary where the efforts made by parents, teachers, administrators, and the community will help achieve the goal of making life-long learners out of all of our students.

Curricular materials for K-8 are chosen from the State adopted list and 9-12 materials are aligned to State standards. Each ~~curriculum~~ curricular area is evaluated by a team of teachers and modified to meet the needs of the students on an adopted cycle. Current core programs include:

- Reading
  - Houghton Mifflin Literature (K-6)
  - Prentice Hall Literature (7-~~8~~12)
  - AGS Literature (9-12)
  - Accelerated Reader (Renaissance Learning) (1-~~8~~12)
  - Glencoe Reader's Choice (9-12)
  - Read Naturally
  - Teacher Developed Units

- Language Arts
  - Houghton Mifflin Language (K-~~6~~8)
  - Prentice Hall Language (7-~~8~~12)
  - Developmental Morphology (K)
  - Step Up to Writing (2-8)
  - Vocabulary and Literacy Skills (Renaissance Learning) (1-~~8~~12)
  - The WRITE Institute
  - Teacher Developed Units

- Mathematics
  - EnVision Math (Scott-Foresman) (K-6)
  - Progress in Math (Sadler-Oxford) (K-6)
  - McDougall Littell (7-8)
  - Prentice Hall (7-12)
  - AGS (9-12)
  - Holt (8-12)
  - Math Facts in a Flash (Renaissance Learning) (1-8)
  - Accelerated Math (Renaissance Learning) (1-8)
  - Teacher Developed Units
  - Touch Math

- Science
  - Houghton Mifflin (K-6)
  - Glencoe (7-~~8~~12)
  - Holt (9-12)
  - AGS (9-12)
  - Teacher Developed Units
  - Accelerated Reader literature selections

- Social Sciences
  - Houghton Mifflin (K-8)
  - Glencoe (9-12)
  - History Alive (7-8)
  - AGS (9-12)
  - Globe Feron 9-12)
  - Whispers of the First Californians
  - Whispers of the Mission Trails
  - Accelerated Reader literature selections
  - Teacher Developed Units

~~***Community Service Goals.*** Long Valley Charter School site based and Independent Study students have the opportunity to design and implement community service projects annually.~~

~~documenting their work in a portfolio and presenting it for display to the public in a community exhibition.~~

Site Based ~~Educational Objectives~~Program

The Doyle location offers a K-8 classroom based program with small class sizes and personalized attention. ~~Our purpose is to create a place where learning is viewed as a life long~~lifelong ~~quest, where program objectives evolve with the needs of the students. We strive to:~~

- ~~Provide multi-age settings to encourage the development of pro-social attitudes of tolerance and responsibility~~
- ~~Teach students to effectively utilize technology to expand learning opportunities~~
- ~~Provide parents and students an expanded choice of educational opportunities~~
- ~~Create opportunities for all members of the Charter School to assume leadership roles and accept responsibility for the learning of all students~~
- ~~Provide and implement innovative teaching methods in an environment conducive to learning~~
- ~~Inspire active learning~~
  ~~Provide support for family based instruction~~

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We are committed to best teaching practices that have been developed from a strong research base. Teachers deliver standards-based instruction and set high expectations for themselves and their students. We understand that using a variety of instructional models will yield best results. Teachers and support staff employ direct instruction, whole group modeling and demonstration, small group instruction, and individual conferencing in order to provide education that meets the needs of all learners. Students also learn through the use of concrete examples, manipulatives, and multi-sensory activities to develop conceptual understanding. An integrated curriculum based on state standards provides opportunities for teachers and students to address depth and complexity across disciplines and sets the stage for understanding, analyzing, applying, evaluating, and synthesizing new information. This enables students to demonstrate knowledge and skills on pencil and paper tasks or by way of performance-based assessments. A growing body of research has shown that student collaboration has a powerful effect on academic learning as well as on social development and the acquisition of academic language.

The classroom climate at Long Valley Charter School emphasizes cooperation and collaboration, fostering a dynamic environment that values the constructive nature of learning. Students learn from one another, their teachers, and other adults. Ongoing flexible grouping and regrouping within and between classrooms accommodates diverse learning needs and behaviors.

Teachers provide differentiated instruction tailored to the individual needs of each student to ensure success for all students regardless of their learning style, English language proficiency, or socio-economic background. Teachers begin with the state standards then use a variety of instructional methodologies to best fit the needs of their class and individual students. Through

the use of pre-assessments, teachers determine where students are in relation to expected outcomes and then create multiple pathways for students to successfully reach interim steps on the way to proficiency. Student progress toward standards may be monitored through observation and formative assessments.

The Doyle site has a focus on character education; every Monday students are celebrated and acknowledged at the "Caught Being Good" assembly. Tradition is important to the entire constituency; annual events such as holiday programs, festivals, science fair, and Spring Sing witness great attendance and participation. The school serves as a center for the community.

~~***Independent Study Educational Objectives***. Long Valley Charter School supports and facilitates independent study for families interested in this type of an alternative educational program pursuant to Education Code Sections 47612.5(b) and 51745-51749.3, and the regulations specified in Title 5, California Code of Regulations, Sections 11700-11710, through:~~

- ~~Providing support for family based instruction~~
- ~~Lesson planning and consultation~~
- ~~Sharing Long Valley Charter School resources after school hours~~
- ~~Sharing Community Outreach programs and assemblies~~
- ~~Participation in extracurricular activities at Long Valley Charter School~~

~~***Community Outreach Program***. The Community Outreach Program is designed to bring a wide variety of educational information to our students through multiple methods. Long Valley Charter School utilizes the community as a learning resource at the Charter School through visiting experts, field studies, mentors, and possibly student internships. The Community Outreach Committee developed partnerships with community colleges, universities, professional and humanities groups, and performing and visual arts groups to expose the students to career opportunities and cultural enrichment. Our purpose is to give our children the opportunity to dream about the multiple possibilities for their future.~~

~~The Community Outreach Committee invites Independent Study students and students from Fort Sage School District (the "District") to share events with Long Valley Charter School. Long Valley Charter School has cooperative ventures with the other schools in the District such as Outdoor Education Camp, Lit Jam and Lit Fest that enhance opportunities for all families in our community.~~

~~***Student Goal Plan***. All students deserve the opportunity to develop interests, uncover hidden talents, experience satisfaction and accomplishments. Each student enrolled in the Charter School has an opportunity to develop a Student Goal Plan (SGP). This is an individually defined program created by the teacher, the parent and student , to set achievement goals for academic progress. The SGP is closely tied to measurable student outcomes and assessment procedures, and is periodically reviewed by the student, teacher, and parents. Students and parents receive assessment reports throughout the year, which indicate the students' progress toward the goals outlined in their SGP. Students also receive report cards appropriate for their grade level. Students in the grades K-3 site-based program receive Standards Based Report Cards. Students in the grades 4-8 site-based program receive report cards with traditional letter grades and the~~

~~report card system is evolving to the Standards Based Report Cards. Independent study students receive grade appropriate report cards with traditional marks.~~

Independent Study Program. Long Valley Charter School utilizes the Personalized Learning method for Independent Study. This approach supports individual development, through choice of curriculum aligned with state standards, engaging parents along with students in learning and goal setting, and provides classroom instruction at our learning centers, within the community, and through distance learning. The key to success in personalized learning is the guidance of an assigned certificated Teacher who guides students and parents through the individualized curriculum and learning modes, and provides direct instruction classes and tutoring at our resource centers. Our approach encourages students to be highly involved in the educational process, thereby becoming self-motivated, competent, lifelong learners.

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At enrollment, our personalized learning/independent study approach begins with a careful analysis of the student's individual needs; based on STAR test data, school administered EdPerformance Scantron testing in Language Arts and Math, which reflects the student's progress to date, the student's learning modality, and strengths and weaknesses. Beginning with the very first meeting, we engage students, along with parents, in learning and goal setting. The Charter School teachers are trained to guide students into the correct courses for them, leading toward a high school diploma. Students who are performing at or above grade level standards are challenged to expand their learning opportunities and to pace themselves to achieve maximum success. Students who are academically low achieving are required to meet more frequently and receive direct instruction with the teacher or tutor. Both of these programs will be more fully explained in separate sections of this charter. The team of student, parent, and teacher continue to interact a minimum of once every 10 school days, determining the student's goals for each learning period, as well as how that will fit into his or her overall goals.

Independent Study Implementation. Interested parents or students will contact the school. An interview is scheduled to ensure that the parents and students understand the model and requirements of our program. An enrollment packet is completed which includes the mandatory immunization information, request for the cumulative file, etc. A teacher is designated to be the supervising teacher that student. A team is formed with the teacher, the parent and the student. During the initial meeting between all team members a discussion, using current standards-based assessments, and grades, of each core area helps identify the student's academic progress to date and any particular learning modalities and passions that the student has. Upon enrollment, parents, students and teachers enter into a semester Master Agreement which guides instruction throughout the semester. This Master Agreement specifies the courses to be completed as well as other mandatory requirements. At the elementary level, all students must complete a full standards-based language arts, math, science, social studies, and physical education course in addition to electives including music, art, etc. High school students must enroll in courses which will lead to the high school diploma as outlined in our high school graduation requirements.

Following enrollment, the parent/student/teacher team meets regularly to make assignments, evaluate progress, and utilize assessments to inform ongoing instruction. Proficiency in each learning area is monitored and recorded during the minimum of once every 10 school days learning meeting. The teacher records assignment completion and assures compliance with the

Board's policies for Independent Study. If the student does not meet the work requirement, a missing assignment report is issued, mandatory weekly meetings are scheduled, and the parent/student/teacher team will begin a process to evaluate whether independent study is an appropriate placement for the student.

Parental involvement is critical as students/parents may choose to do all or a portion of their studies at home or at the resource centers. Parents are mentored by the teacher at each meeting. If the student is not performing successfully exclusively as an independent study student, the team works together to choose from the other options that include more direct instruction. Parents or guardians who enroll their children in this charter agree to be responsible in the participation and daily monitoring of their children's education. The parents serve as co-educators in their children's learning program and will also have the opportunity to play an active role in the governance and policy development of the school. Parents/Students may also choose to attend the resource centers for a large variety of core and enrichment classes. Classes will be formed based upon satisfying the school's standards of meeting student interest and need, and will be based upon age level, skill level, and other appropriate determining measures. Currently, the resource centers offer classes in language arts, math, social studies, science, and numerous electives. The Charter School standards include keeping class sizes to no more than 15 students wherever possible, so that qualified teachers may offer personalized learning services to students within the classroom. We create small communities in our resource centers where experimentation and creativity will flourish and children are known. Students who have difficulty adapting to traditional school settings will find the individualized nature of the personalized learning educational approach especially supportive of their unique needs and interests.

Attached, as Appendix A, please find a sample set of classes from our resource centers.

Connecting the Site-Based and Non-Site Based Program

Despite the geographic distances between the Long Valley Charter School locations, the school community is well connected. The school site and each resource center has Internet access, a computer lab, a large screen display and high definition camera. We use an Internet based video teleconferencing program for many face to face opportunities including:

- Delivering staff development topics
- Sharing student courses
- Advisory Council meetings
- Tutoring by Highly Qualified Teachers
- Increasing public participation in monthly Doyle-based Board meetings
- Weekly Leadership Team Meetings (Director & Asst. Directors)
- WASC Team Meetings

Since LVCS is based in Lassen County, it is welcomed to participate in county-wide activities. All resource centers are invited to take part in events such as the Literature Jamboree, Art Contest, and Science Fair. Field trips may be initiated by any location and are communicated to

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the others, creating opportunities and collaborations between varying groups of students and educators.

~~*Staff Enrichment Program. Each member of the teaching staff at Long Valley Charter School provides and participates in the staff enrichment program. Each teacher chooses projects that mutually benefit the Charter School staff. These projects may be an innovative teaching method, program or concept. Upon approval of the project by the Advisory Council, the Enrichment Teacher receives training, which they share with the rest of the staff through in-service. The Enrichment Teacher is responsible for providing staff support for this project throughout the year. The purpose of the Staff Enrichment Program is to improve the quality of education, build a cooperative, cohesive staff, promote shared responsibilities, and facilitate open communication among our educators.~~

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High School Program Long Valley Charter School is accredited by the Western Association of Schools and Colleges through June 2012 with renewal currently in process. Courses for a-g approval will be submitted in anticipation of approval for the 2012-2013 school year. Until such time as approval is received, students are clearly notified during the enrollment process that courses do not meet the requirements for entry to UC/CSU programs.

The Charter School's graduation requirements and high school course of study are aligned with state and college admission requirements. Students entering the high school program through our own K-12 program, as well as students, who transfer from other high schools, meet with their assigned teacher to establish a high school graduation plan. High school students are assigned to a highly qualified teacher in each of the core subjects. A discussion of the impact of previous/future student coursework occurs during the enrollment meeting as well as ongoing teacher, parent and student meetings. Issues discussed include (1) how this new student's coursework from her/his previous school fits into the Charter School's graduation requirements, (2) how, therefore, to create and implement a personalized learning plan based on that previously completed coursework, and (3) how to best plan that particular student's coursework to fit into their personal goals (college, career), meet California's standards for high school graduation, and meet the Charter School's graduation requirements. Also a factor in the teacher/parent/student planning process is to fit that particular student's plan into their more immediate goals, which may include transfer back into their local, comprehensive high school. A transcript of all student work is maintained by the registrar and will be given to any school making a student cumulative file request. The coursework of prior schools will be indicated as well as the units earned through our program. We also inform our parents and students of the options available and the impact of those options.

Our high school learners, in consultation with their assigned supervising teacher and parent, may choose any combination of the following instructional options:

- Online courses such as Rosetta Stone language, Odysseyware courses, Apex advanced placement courses
- Resource center core classes with highly qualified teachers
- Elective classes at the resource centers or community based
- Textbook driven or project based independent studies

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- Tutoring with highly qualified core subject teachers

Long Valley Charter School believes the best way to prepare students for life after high school is to ensure they graduate with a strong foundation in the core academic areas that will leave all doors open in the future. While continuing to improve upon the level of rigor of core subjects, we are additionally developing a career technical education (CTE) program. To begin, we have offered electives of interest to students that include: Fashion Design, Design & Technology, Video Game Design, Hospitality Services, and Business Communications. We anticipate creating more focused "academies" that meld CTE and academic coursework by the 2013-2014 school year.

Based on increased research overwhelming supporting the benefits of earning a college degree, there is an emphasis placed on encouraging students to pursue a path leading to college. Upon entry to our program at any grade level, the supervising teacher begins the discussion of working hard, building skills, and attending college. Many of our students will become first generation college students and including parents in the discussion creates a powerful alliance toward that goal. Our rural environment offers several community college programs, making enrollment in a 2 year program realistic both geographically and financially. Students are encouraged to explore their interests, college programs, prepare for college tests, and take PSATs and SATs. Students also participate annually in college open houses, college-sponsored career day programs, and cash for college counseling nights. Students have the opportunity to earn college credit prior to graduation through concurrent enrollmen in online or campus-based community college courses. We currently have students attending Feather River College, Lassen College, Shasta College and Sierra College. Long Valley Charter School administrators have built relationships with the admissions and counseling departments at the institutions in each county to assure smooth entry for our students and compliance with the colleges' policies and procedures.

Graduates from the Charter School will be equipped with strong academic skills and highly developed computer and network/research skills that will enable them to qualify for jobs in an economy that is increasingly technology-centered. This charter intends to seek out relationships with corporations, foundations and organizations that can facilitate the highest quality educational opportunities for the enhancement of both the academic program and personal growth through apprenticeships and community service in business and professional environments prior to graduation.

Transferability and Eligibility of Courses. Each semester as high school students enroll in the Independent Study program, their supervising teacher meets with the student and parent to inform them about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Parents are informed that the Charter School is accredited by the Western Association of Schools and Colleges and is in the process, but does not currently have a-g accreditation[4]. When an independent study program high school student and his or her parents have the first meeting with their Education Facilitator, they are informed of the California high school graduation requirements and the courses required by the California State University system. Students are enrolled in the courses required for their individual goals

[4] When a-g accreditation is achieved, parents and students will be informed of such accreditation at the beginning of each semester.

that meet California high school graduation requirements. ~~Parents and students are informed that some high schools may not consider all courses transferable and that the Charter School is accredited with the Western Association of Schools and Colleges. The California State University system has accepted courses creditable under the "A" to "G" admissions criteria to meet college entrance requirements.~~

Serving Academically Low-Achieving Students

All teachers are trained to give attention to students with learning challenges. These students may be identified initially through STAR test results. In addition, we administer our EdPerformance Scantron standardized testing (completed three times each year.) Low achieving students are also identified through regular interactions with their teacher, or through a conversation with the parent. The student's progress toward the goals and objectives are monitored and documented by the teacher. Some strategies include using universal access supplements and online computer based skill builders. If the student is successful with these interventions, the process is continued at that level. If the student's needs cannot be met through this process, a formal referral for an SST is made. Through the SST process, goals and objectives are further defined and monitored. Regular follow-up meetings are determined. If the student is not showing improvement, the SST will be revised as needed to address the deficiencies and a referral for assessment for consideration of eligibility under either the IDEA or Section 504 may ~~special services is~~be made.

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~~The Charter School offers tutoring in the basic subjects for low performing student Independent Study during traditional school hours. We are using Scantron to establish base-line performance in the areas of reading, math and language arts for our Independent Study students only to help identify students' needs and to show student growth. It will also show us which students have advanced skills in these areas.~~ Additionally, specific ~~Site~~site-based ~~students are assessed with~~ assessments include DIBELS and the Scholastic Test of Achievement in Reading to establish both base-line and growth scores for reading. All students use the Accelerated Reader on-line reading assessment program. Site-based students are assessed with the Accelerated Math on-line program. All students are assessed in basic math skills using Math Facts in a Flash.

Site-based students who perform low in the area of reading are offered Title 1 teacher assistance as well as reading interventions in small group settings allowing for intensive reading instruction for an additional twenty minutes a day Monday through Thursday.

Specific to independent study, the personalized learning approach is inherently well suited for addressing the needs of students who are academically low achieving. Because an individualized plan is developed from the time of enrollment for all students, students who are assessed as academically low achieving are identified immediately. Appropriate curriculum is selected which is designed to meet the needs of these students in specific areas, and weekly tutoring or classroom instruction is required when students have scored below basic in any core subject area.

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Serving Academically High-Achieving Students

~~Advanced~~Academically talented students at Long Valley Charter School are challenged and enriched in their regular classrooms at the site based program. Specific techniques utilized include providing an in-depth experience with each level of learning: exploring enrichment topics: and compacting the curriculum. Personalized learning through independent study provides an opportunity for high achieving students to develop a customized plan in each subject ~~Independent Study~~ ~~H~~high school students capable of college level work, may enroll at their local community college Limited concurrent enrollment for high school students is permissible in some programs allowing students to earn credits prior to high school graduation. ~~in Barstow Community College on-line course work beginning in grade 9 based on STAR scores, report cards, and teacher observation or on campus at Lassen Community College to take course work for high school credit and if their parents choose to pay the tuition, students may earn their AA by the time they graduate from high school. We also offer several visual and performing arts options such as music, dance, and art for our students through private vendors.~~ For gifted student in the areas of visual and performing arts, we offer courses in art, music and dance taught by highly qualified staff or community experts.

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Serving English Learners

Overview

The Charter School will meet all applicable legal requirements for English Learners ("EL") as it pertains to annual notification to parents, student identification, placement, program options, EL and core content instruction, teacher qualifications and training, re-classification to fluent English proficient status, monitoring and evaluating program effectiveness, and standardized testing requirements. The Charter School will implement policies to assure proper placement, evaluation, and communication regarding ELs and the rights of students and parents.

The goals developed for English Learners correlate with existing Long Valley Charter School Board adopted goals for all students. A successful program for English learners is organized to provide equal access to the thinking, meaning centered core curriculum for all students. A relevant curriculum not only addresses the development of English communication, but also higher level thinking skills and academic proficiency. Relevance is achieved by focusing on key concepts from the core curriculum which are delivered through a variety of meaningfully connected experiences for students. At Long Valley Charter School the major goal for English Learners is to develop English fluency as rapidly as possible in an established English language program through structured English immersion or an alternate course of study with curriculum designed for such students.

Home Language Survey

The Charter School will administer the home language survey upon a student's initial enrollment into the Charter School (on enrollment forms).

CELDT Testing

All students who indicate that their home language is other than English will be CELDT tested within thirty days of initial enrollment[5] and at least annually thereafter between July 1 and October 31st until re-designated as fluent English proficient.

The Charter School will notify all parents of its responsibility for CELDT testing and of CELDT results within thirty days of receiving results from publisher. The CELDT shall be used to fulfill the requirements under the No Child Left Behind Act for annual English proficiency testing.

Reclassification Procedures

Reclassification procedures utilize multiple criteria in determining whether to classify a pupil as proficient in English including, but not limited to, all of the following:

- Assessment of language proficiency using an objective assessment instrument including, but not limited to, the California English Language Development Test or CELDT.
- Participation of the pupil's classroom teachers and any other certificated staff with direct responsibility for teaching or placement decisions of the pupil to evaluate the pupil's curriculum mastery.
- Parental opinion and consultation, achieved through notice to parents or guardians of the language reclassification and placement including a description of the reclassification process and the parents opportunity to participate, and encouragement of the participation of parents or guardians in the reclassification procedure including seeking their opinion and consultation during the reclassification process.
- Comparison of the pupil's performance in basic skills against an empirically established range of performance and basic skills based upon the performance of English proficient pupils of the same age that demonstrate to others that the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.
- The Student Oral Language Observation Matrix will be used by teachers to measure progress regarding comprehension, fluency, vocabulary, pronunciation, and grammar usage.

[5] The thirty-day requirement applies to students who are entering a California public school for the first time or for students who have not yet been CELDT tested. All other students who have indicated a home language other than English will continue with annual CELDT testing based upon the date last tested at the prior school of enrollment.

Strategies for English Learner Instruction and Intervention

~~All LVCS current teachers have completed ELD course work or testing (SDAIE) to be able to instruct English Learners. Most of our curriculum includes ELD materials.~~

Teacher Certification

All LVCS teachers are required to have a CLAD certification or California Commission on Teacher Credentialing ("CTC") recognized equivalent certification. If any teacher employed during 2011-2012 school year does not currently hold this certification, such certification will be a condition of employment for the 2012-2013 school year. EL students are only assigned and/or instructed by teachers holding the legally appropriate certification.

ELD Curriculum

Most of the curriculum used by LVCS contains imbedded and/or supplementary ELD materials. In addition, EL students have access to materials specifically for English as a second language. The personalized approach easily allows teachers to use curriculum that addresses appropriate grade level content at the student's instructional level. Where ever possible, EL students use the same materials as their grade level peers. Publisher materials for EL students are used as appropriate. EL students are encouraged to develop their language arts skills in their primary languages also. Fluency in both English and a second, although primary, language enhances the students' abilities to pursue college and career opportunities.

Long Valley Charter School provides all English Learners (EL) with a base program comparable to that of their native English speaking peers. The base program is defined as services and materials received by English only speaking students which are paid by the school's general funds. Funding from Economic Impact Aide (EIA), Title I, or other supplemental money adheres to federal regulations and is used to provide qualified services over and above the school's base program. Primary language materials are purchased when appropriate. The school site and Independent Study programs supplement their library collections and classroom materials with multi-cultural literature and resources that reflect the heritage of ELs. All EL students have access to core curriculum materials and instructional supplies. School general funds are used to purchase the Houghton-Mifflin series for English-Language Arts. Currently, the online edition of Rosetta Stone is available as a supplementary material for ELD in addition to the Houghton-Mifflin Leveled Readers Language Support textbooks.

Instructional Strategies

Long Valley Charter School has established the following researchers and /or research studies as providing theoretical base for its specialized program serving the diverse language minority enrollment in the school:

Theoretical Base

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- We best develop language through natural acquisition rather than being taught the discreet rules and structures.
- There is a natural order to the way one acquires a language. Although this order may appear to be grammatical, language development programs should not be grammar based in nature.
- There is a learning device within all of us which naturally monitors the correctness of our grammar and structure.
- The effective acquisition of language comes only after clearly comprehending messages containing natural language.
- Effective acquisition of a language is highly correlated with low anxiety environments where students are highly motivated and self confident.

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(Terrell, Tracy, 1981 The Natural Approach to Bilingual Education)

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Major Principals:

- Speech is not taught directly, but rather, is acquired by means of "comprehensible input" in low-anxiety environments.
- Speech emerges in natural stages. First, one goes through a listening stage. Second, one begins to produce single words to single phrase responses to what exists in the environment. Next, one produces phrases and sentences to give meaning to what exists in the environment. Finally, one is able to produce complex phrases and sentences set in different places in time.

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(Cummins, James R. 1981. The Role of Primary Language Development in Promoting Education)

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English Learners are placed in an English Language Mainstream Class utilizing Specially Designed Academic Instruction in English (SDAIE) strategies when enrolling at the Long Valley Charter School site-based program. Some of those strategies include: relia, visuals, graphic organizers, use of total physical response and encouragement of oral language. Instruction in this environment is provided overwhelmingly in English; however, primary language support may be provided as necessary and/or as available by either the classroom teacher or by a bilingual instructional assistant. English learners enrolled in the Long Valley Charter School Independent Study Program are assessed in the same manner as EL students enrolled at the site based program. ELD and SDAIE instruction is provided by the supervising teacher in collaboration with the student's support system. The instruction is provided on a one to one basis or in a small group setting in the Long Valley Charter School Resource Center closest to the student's home. Program components and materials are the same as those used at the site based program.

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Program Evaluation

Long Valley Charter School has developed a process for determining the effectiveness of its program for English Learners. Assessment procedures used to determine the progress of ELs include: annual English Language assessments, STAR test data collection and analysis, and school adopted criteria for content standards and grade level expectations. English language proficiency scores are analyzed annually by the teachers to determine whether or not each student has met the annual benchmark goal during the academic year. STAR achievement results of ELs are also analyzed on a yearly basis to monitor growth in academic areas. Based on the data, EL students who have met the school-established criteria are re-designated as Fluent English Proficient(R-FEP). All EL students are evaluated by school-adopted criteria to monitor progress and growth at each stage of language acquisition. Every year, the school reviews its school plan, evaluates each component, makes modifications and adjustments, and develops new approaches to ensure overall program effectiveness and high academic standards for all students.
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Serving Students with Disabilities

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Overview

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The Charter School shall comply with all applicable state and federal laws in serving students with disabilities, including, but not limited to, Section 504 of the Rehabilitation Act ("Section 504"), the Americans with Disabilities Act ("ADA") and the Individuals with Disabilities in Education Improvement Act ("IDEIA"). Long Valley Charter School shall not discriminate against any student with a disability.

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The Charter School is an LEA member of the Lassen County SELPA ("SELPA") in accordance with Education Code Section 47641(a) and thus shall be solely responsible for its compliance with all state and federal laws related to the provision of special education instruction and related services and all SELPA policies and procedures; and shall utilize appropriate SELPA forms.

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The Charter School shall also be solely responsible for its compliance with Section 504 and the ADA. The facilities to be utilized by the Charter School shall be accessible for all students with disabilities.

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Services for Students under the "IDEIA"

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Long Valley Charter School adheres to the provisions of the IDEIA and state special education laws and regulations to assure that all its students with disabilities are offered a free, appropriate public education ("FAPE"). These provisions and laws provide a structure and framework that compliments the personalized learning approach that Long Valley Charter School uses for each student. Long Valley Charter School encourages team collaboration within the general education program and with the special education program when appropriate.

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Long Valley Charter School adheres to all applicable State and Federal law and SELPA policies and procedures regarding special education, including but not limited to identification, assessment, IEP development, and IEP implementation. Long Valley Charter School collaborates with the SELPA as an active participant in the SELPA meetings, including the newly formed

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SELPA Charter Group. Long Valley Charter School uses SELPA forms. The LVCS administration and staff work with the SELPA administration and staff to develop, maintain, and review assessments and IEPs in the format required by the SELPA, including assessment and inputting IEP data into the SELPA data system in accordance with SELPA policies and procedures. The SELPA maintains all of the LVCS Special Education records, including student assessments and IEP's. Long Valley Charter School maintains copies of assessments and IEP materials for review by the SELPA. Long Valley Charter School submits to the SELPA and the Authorizer all required reports, in a timely manner as necessary to comply with state and federal laws. The IEP team develops Individual Transition Plans to help a student with disabilities, age 14 and older, in transitioning to adult living. LVCS supports the SELPA and the students in developing Workability opportunities and in completing the Department of Rehabilitation application process. Each IEP team is comprised of all legally required members, including the LVCS administrator or appropriate designee, the general education teacher of record, the special education teacher/case manager, a SELPA administrator/designee, the student, and the parent or guardian. In addition to the core IEP team, other people may be invited or required to attend depending on the purpose of the meeting. These others might include the psychologist, the nurse, speech and language specialist, therapists, mental health or Far Northern case managers, or parent or student invited individuals.

The Lassen County SELPA receives all SPED revenues and is responsible for the management of the special education budgets, personnel, programs, and services of the SELPA member schools. Long Valley Charter School The SELPA ensures that its special education personnel are appropriately credentialed or licensed as consistent with applicable California and Federal laws and regulations. The Long Valley Charter School Administration meets with the SELPA administration at general meetings and by appointment in order to remain informed, and therefore plan for, any encroachments and changes in the LVCS fiscal responsibilities. These meetings also address concerns, changes and needs regarding special education student services, staffing, facilities, and materials or equipment.

As with all populations of students at the Charter School, the unique instructional needs of special education students are identified early and accurately, ensuring that the Charter School complies with all child-find requirements under applicable state and federal law and SELPA policy. All students are assessed in math, reading and language arts upon enrollment in LVCS. Curriculum and instruction is personalized for the student's instructional level and academic goals and grade level. In all cases, LVCS delivers grade level core content material differentiated for the student's instructional level, whether that level is above or below the grade level California State Standards expectations. Independent Study students qualifying for special education meet, at least, once every 5 school days with the supervising general education teacher of record as well as elective classes and tutoring and receiving special education services, accommodations, and/or modifications as required by the IEP. The site based students receive differentiated instruction in the classroom setting with Title 1 support as appropriate along with special education services, accommodations, and /or modifications as required by the IEP. In both the site based and the independent study programs students are assessed through observation, evaluation of daily work, publisher tests, and core subject assessments on a regular basis. This enables teachers and other staff to quickly identify and provide intervention for any problem areas, whether academic, social or behavioral. The referral process includes Student

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Study Team meetings to review prior interventions, accommodations, and modifications, and to recommend further interventions as appropriate. The Charter School identifies and refers students who demonstrate early signs of academic, social, or behavioral difficulty that may require assessment for special education eligibility and placement in a special education program.

The Charter School SELPA ensures that it provides for assessment and reassessment of special education students as required by applicable State and Federal law. Special education students have individualized education plans ("IEP") developed by a legally constituted IEP team which are implemented by highly qualified general education and special education teachers and Special Education Specialists as required by each student's IEP. SELPA and LVCS staff collaborates during the assessment process to ensure appropriate and complete assessments as dictated by the required assessment process and as needed by the student.

Long Valley Charter partners with the SELPA to ensure that all IEPs are maintained, implemented and goals pursued based on individual needs of and strengths as required by each student's IEP. The IEP of each student is designed to focus on obtaining powerful, positive results through collaborative partnerships that involve the student, the student's parents, teachers, special education personnel, Charter School. The IEP is formulated to challenge and support special needs students to pursue academic and personal goals and to meet or exceed the Ca State and LVCS requirements for a high school diploma, including passing the CAHSEE, in ways that allow the student with disabilities to meet or exceed the Charter School's high standards for academic excellence. The Charter School ensures that the teachers and other persons who provide services to a student with disabilities are knowledgeable of the content of the student's IEP, including substitute teachers as necessary.

In both the site based program and the independent study program, students with disabilities, to the greatest extent possible, and in accordance with their IEPs and applicable law, are integrated into the Charter School's least restrictive educational environment that spans a home-school-community continuum of educational experiences, and includes the full range of academic, non-academic, and extracurricular activities with non-disabled peers. Differentiation strategies along with the use of accommodations/modifications as stated in the IEP will be implemented. At the site students receive SPED services within the classroom setting and on a pull-out basis. In the independent study program students receive SPED services in the resource centers via small group or individualized instruction.

The Charter School has based its special education program on research and best practice, and its assigned Assistant Director coordinates and monitors the Charter School's policies, procedures and programs accordingly. The Charter School acts as an advocate for each student who requires special services and assistance to participate fully in the Charter School's Educational Program.

Long Valley Charter School ensures that student discipline and procedures for suspension and expulsion of students with disabilities are in compliance with state and federal law, as further described below under "Suspension and Expulsion Policies."

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The SELPA, in consultation with Long Valley Charter School, will respond to any parent/guardian complaint regarding its compliance with the IDEIA in accordance with the applicable law and SELPA policy and procedure. The LVCS will work together with the SELPA in the case of any due process hearings, whether initiated by the SELPA on behalf of a student enrolled in LVCS or initiated by the parents or guardians of a student at LVCS.

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~~*Overview*~~

~~The Long Valley Charter School shall comply with all applicable state and federal laws in serving students with disabilities, including, but not limited to, Section 504 of the Rehabilitation Act ("Section 504"), the Americans with Disabilities Act ("ADA") and the Individuals with Disabilities in Education Improvement Act ("IDEIA").~~

~~The Charter School shall be categorized as a public school of the County in accordance with Education Code Section 47641(b).~~

~~The Charter School shall comply with all state and federal laws related to the provision of special education instruction and related services and all SELPA policies and procedures; and shall utilize appropriate SELPA forms.~~

~~The Charter School shall be solely responsible for its compliance with Section 504 and the ADA. The facilities to be utilized by the Charter School shall be accessible for all students with disabilities.~~

Section 504 of the Rehabilitation Act

The Charter School recognizes its legal responsibility to ensure that no qualified person with a disability shall, on the basis of disability, be excluded from participation, be denied the benefits of, or otherwise be subjected to discrimination under any program of the Charter School. Any student, who has an objectively identified disability which substantially limits a major life activity including but not limited to learning, is eligible for accommodation by the Charter School.

A 504 team will be assembled by the Executive Director and shall include the parent/guardian, the student (where appropriate) and other qualified persons knowledgeable about the student, the meaning of the evaluation data, placement options, and accommodations. The 504 team will review the student's existing records; including academic, social and behavioral records, and is responsible for making a determination as to whether an evaluation for 504 services is appropriate. If the student has already been evaluated under the IDEIA but found ineligible for special education instruction or related services under the IDEIA, those evaluations may be used to help determine eligibility under Section 504. The student evaluation shall be carried out by the 504 team, which will evaluate the nature of the student's disability and the impact upon the student's education. This evaluation will include consideration of any behaviors that interfere with regular participation in the educational program and/or activities. The 504 team may also consider the following information in its evaluation:

- Tests and other evaluation materials that have been validated for the specific purpose for which they are used and are administered by trained personnel.

- Tests and other evaluation materials including those tailored to assess specific areas of educational need, and not merely those which are designed to provide a single general intelligence quotient.

- Tests are selected and administered to ensure that when a test is administered to a student with impaired sensory, manual or speaking skills, the test results accurately reflect the student's aptitude or achievement level, or whatever factor the test purports to measure, rather than reflecting the student's impaired sensory, manual or speaking skills.

The final determination of whether the student will or will not be identified as a person with a disability is made by the 504 team in writing and notice is given in writing to the parent or guardian of the student in their primary language along with the procedural safeguards available to them. If during the evaluation, the 504 team obtains information indicating possible eligibility of the student for special education per the IDEIA, a referral for assessment under the IDEIA will be made by the 504 team.

If the student is found by the 504 team to have a disability under Section 504, the 504 team shall be responsible for determining what, if any, accommodations or services are needed to ensure that the student receives a free and appropriate public education ("FAPE"). In developing the 504 Plan, the 504 team shall consider all relevant information utilized during the evaluation of the student, drawing upon a variety of sources, including, but not limited to, assessments conducted by the School's professional staff.

The 504 Plan shall describe the Section 504 disability and any program accommodations, modifications or services that may be necessary.

All 504 team participants, parents, guardians, teachers and any other participants in the student's education, including substitutes and tutors, must have a copy of each student's 504 Plan. The site administrator will ensure that teachers include 504 Plans with lesson plans for short-term substitutes and that he/she review the 504 Plan with a long-term substitute. A copy of the 504 Plan shall be maintained in the student's file. Each student's 504 Plan will be reviewed at least once per year to determine the appropriateness of the Plan, needed modifications to the plan, and continued eligibility.

~~The Charter School continues to function as a "public school of the County Office of Education" for purposes of providing special education and related services pursuant to Education Code Section 47641(b).~~

~~The Charter School and County annually, in good faith negotiate, and enter into a written agreement to more clearly specify the desired mix of special education funding and services to be provided. The Charter School enjoys reasonable flexibility to decide whether to receive services, funding, or some combination of both pursuant to Education Code Section 47646(b).~~

~~The Charter School and the County work in good faith to document the specific terms of this relationship in an annual agreement or memorandum of understanding.~~

~~The Charter School shall have the right to pursue independent local education agency (LEA) and/or special education local plan area (SELPA) status pursuant to Education Code Section 47641(a), and the District shall not hinder, or otherwise impede the efforts of the Charter School to do so. In the event that the Charter School opts not to establish independent LEA and/or SELPA status, it shall remain an arm of the County for special education purposes as required by Education Code Section 47641(b), and/or shall continue to receive funding and services pursuant to the terms of this section and its annual agreement.~~

Professional Development

Long Valley Charter School understands the importance of continual teacher training and professional development. Research clearly indicates that the expertise and qualifications of teachers is the single most important determinate of student achievement. As a *collaborative learning sanctuary*, we are a culture where teachers open doors and share their learning. We are implementing a three-tiered professional development approach that is focused on supporting teachers as they strive to *ensure academic excellence for every student*, living our Mission and Vision.

The first tier focuses on whole group professional development starting with our Mission, Vision, Core Beliefs, and Priority Actions that will guide us for the next five years. Professional development will be built around these three Priority Actions:

- Differentiate instruction and assessment
- Strengthen and create programs to meet the needs of our students
- Increase use of technology and teaching of technology to support curriculum

A central topic for tier one professional development will be the implementation of Classroom Assessment for Learning, (Rick Stiggins, et al.) in order to *differentiate instruction and assessment*. Our goal during the next five years is to fully implement the strategies of engaging students in their own learning process. The intended outcome is to "motivate the unmotivated, restore the desire to learn, and encourage students to keep learning" (Stiggins, 2006).

The key dimensions of the program are:

- Assessments are designed to serve the specific information needs of the intended users
- Clear and articulated achievement targets
- Accurately reflect student achievement
- Yield results that are effectively communicated to the intended user
- Involve students in classroom assessment, record keeping, and communication

This level of professional development determines how Long Valley Charter School will invest time, energy, and resources. Examples of this include but are not limited to faculty participation in workshops, contracting outside consultants to facilitate our work, or purchasing professional

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publications or other materials. Tier one professional development creates the umbrella under which tiers two and three are carried out.

The second tier of professional development involves teachers working in a variety of collaborative groups. Teachers will continue to collaborate within and across grade levels. They will meet regularly in grade levels to discuss student data, curriculum, and teaching practices. Grade level collaboration may include analysis of performance-based assessments or standardized test data for all groups of students, including those identified as ELL, low-performing, or high-achieving, or it may be centered on how specific students respond to intervention. This tier of professional development gives teachers the opportunity to discuss and refine their implementation of tier one professional 3 development based on the age and development of their students. In this way, we *strengthen and create programs to meet the needs of our students.*

The third tier of professional development is based on a coaching model. Coaching may occur between peers or between a teacher and an administrator. At this level, teachers have the opportunity to reflect on their practice and choose professional areas of growth or interest. Teachers meet with peers or administrators to discuss student data and its implications for classroom instruction. These ongoing conversations support teachers as learners, refine our use of best practices, and increase student achievement.

A common thread throughout all levels of professional development is an *increase in the use of technology and teaching of technology to support curriculum.* Long Valley Charter School has developed a technology plan that will be an integral part of our work for the next five years. Our professional development Priority Actions are based on a thorough needs analysis and include clear, specific, realistic goals, and measurable objectives that will provide our teachers and administrators with sustained, ongoing professional development necessary to implement the ideals of the charter.

Attached as Appendix B, please find the professional development calendar for the 2011-2012 school year.

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II. Measurable Student Outcomes

Governing Law: The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program. Education Code Section 47605(b)(5)(B).

Student outcomes are defined as the degree to which all students of the Charter School demonstrate that they have attained the skills, knowledge and attitudes commensurate to their abilities, as specified in the goals of the Charter School's educational program.

Long Valley Charter School provides teachers, parents, and students specific grade level standards at the beginning of each school year. Student outcomes align with the California State content and performance standards, pursuant to Educational Code 47605(c)(1). Long Valley Charter School students participate in all state-mandated testing programs.

Students will continue to demonstrate increased skills and understanding of core subjects including:

- Language Arts
  - Reading, oral and written language
  - Literature from various time periods and cultures

- Mathematics
  - Developing the ability to reason logically and understand and apply mathematical concepts and processes, including those within arithmetic, algebra, geometry, and other mathematical subjects the staff and school board consider appropriate.
  - Comprehensive understanding of how math is applied to the real world in technology today.

- Science
  - Utilizing scientific research and inquiry methods to understand and apply the major concepts underlying various branches of science, which may include physics, chemistry, biology, ecology, astronomy, and earth sciences.
  - Comprehensive understanding of how science is applied to the real world in technology today.

- Social Sciences
  - Civic, historical, and geographical knowledge in order to serve as citizens in today's world of diverse cultures.

Students will also continue to demonstrate the skills that Long Valley Charter School has determined are necessary to become a lifelong learner, including:

- Technology as a resource to increase knowledge
- Increased awareness of their environment and community

- An appreciation of visual and performing arts

It is the Charter School's goal that LVCS will meet or exceed its Academic Performance Index ("API") growth targets both school wide and in reportable subgroups.~~In order to best serve our students and community, Long Valley Charter School will continue to examine and refine its list of student outcomes over time to reflect the Charter School's mission and any changes to state or local standards that support this mission. Long Valley Charter School will submit to the District Board a description of any changes to the above student outcomes.~~

The contents of the 2011-2012 Long Valley Charter Achievement Plan, attached as Appendix C are incorporated herein as material revisions of the charter. Any subsequent School achievement plan shall also be considered a fully incorporated part of this charter.

The contents of the 2011-2016 Local Educational Agency Plan, attached as Appendix D, are incorporated herein as material provisions of the charter. Any subsequent Local Educational Agency plan shall also be considered a fully incorporated part of this charter.

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III. Assessment Methods and the Use and Reporting of Data

Governing Law: The method by which pupil progress in meeting those pupil outcomes is to be measured. Education Code Section 47605(b)(5)(C).

Long Valley Charter School meets all statewide standards and conducts the pupil assessments required pursuant to Education Code Section 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in non-charter public schools.

All Long Valley Charter School students will continue to demonstrate growth appropriate for each student as outlined in their individual Student Growth Plan in all of the core academic areas. Non-special needs and non-English Learner students will continue to demonstrate growth before promotion to the next grade. Academic growth is determined through the use of multiple measures, as described below. Academic growth for special needs and EL students is defined appropriately according to their Individualized Education Plans and/or English proficiency levels.

Long Valley Charter School students are assessed in each of the core academic skill areas by a combination of ongoing "authentic" assessments. These assessments include the following measurement tools:

- Statewide assessment testing through the STAR (Standardized Testing and Reporting) program
- School adopted benchmark curriculum assessments (including STAR Reading, Early STAR Literacy, and Accelerated Math)
- The students' personal Student Goal Plan
- Samples of student work (writing, projects, etc.)
- Self-evaluation by the student
- Demonstration of student's skills and knowledge through performance based instruction
- Observation and evaluation by teachers

The results of these assessments are shared regularly with parents through the following means:

- Conferences and Student Goal Plan reviews
- Progress reports and report cards
- Student testing and class/homework
- Publication of a SARC annually ?
- Disclosing API each school year
- Disclosing AYP each school year
- Disclosing the overall attendance rate
- Disclosing expected school-wide learning results

Charter School Evaluation and Review. Each year, Long Valley Charter School will conduct a program evaluation to determine the effectiveness of all aspects of the program by evaluating measurable student growth. The Education Director or designee will make the resulting reports

available to the Advisory Council and the ~~sponsoring district~~California Department of Education and State Board of Education.

The Education Director or designee of Long Valley Charter School shall make an annual presentation, as requested by ~~to~~ the ~~District Board~~California Department of Education, on the results of the evaluations which will assess all aspects of the Charter, including but not limited to: program content, management, budget, and future plans. The assessment may be accomplished by, but is not limited to, the following methods: analyzing the charter/parent evaluation, discussing the Charter School with the Charter Staff, and evaluating measurable student growth.

IV. Governance Structure

Governing Law: The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement. Education Code Section 47605(b)(5)(D).

The Long Valley Charter School is operated as a California Nonprofit Public Benefit Corporation pursuant to California law. The Charter School is governed pursuant to the bylaws adopted by the incorporators, as subsequently amended pursuant to the amendment process specified in the bylaws, attached hereto as Attachment ~~A~~H.

The Long Valley Charter School governing structure is addressed in Figure 1 below. Long Valley Charter School is governed by the Long Valley Charter School Board of Directors, which will include not less than five members. Directors will be elected according to the Long Valley Charter School Election Policy. The Directors' major roles and responsibilities include:

- Establishing, approving, and supervising all major educational and operational policies
- Approving all major contracts
- Reviewing and approving the Charter School's annual budget
- Approving changes to the budget greater than 5% of the total annual ADA
- Overseeing the Charter School's financial affairs
- Selecting and evaluating the top administrative staff
- Approving Charter amendments by a 2/3 majority

The Board of Directors shall accept, consider, and be responsive to input from all stakeholders. The Board of Directors facilitates the identification of problems and the consensus building needed to identify and implement solutions that will help to maintain a successful school. Consensus is defined as agreement to a solution by all those involved, agreement means that the participants can live with a solution, even though some may not like it. On major issues the Charter School will survey parents and staff to determine if the solutions have their support. When solutions are outside of the authority of this charter, the Board of Directors will request a material revision of the charter from the State Board of Education and will only implement such solutions after approval of the SBE has been obtained. ~~inform the Fort Sage Unified School District Board of Trustees. Unless the Board of Directors vetoes the solution within sixty days after it first appears on a Board of Trustees agenda and is presented by the Education Director, or designee, at a Board meeting, the solution will become a part of this charter and will be reflected as an amendment that will be attached at the end of this charter in sequence as "Amendment 1, Amendment 2, etc." If the issue requires immediate attention, the Long Valley Charter School would like a determination by the next regularly scheduled board meeting.~~

Long Valley Charter School's Board of Directors may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which charter schools are established.

The Board of Directors may execute any powers delegated by law to it and shall discharge any duty imposed by law upon it and may delegate to an officer or employee of the Charter School any of those powers or duties. The Board of Directors, however, retains ultimate responsibility over the performance of those powers or duties so delegated.

The Charter School shall comply with all applicable conflicts of interest laws including but not limited to the Political Reform Act, and Corporations Code, and shall comply with the Brown Act. Annual training on the Brown Act, conflicts laws, and effective governance shall be provided to all members of the Board. Proof of 2011-2012 training, along with training materials is attached as Appendix E.

Stakeholders of the Long Valley Charter School are elected to the Board of Directors in accordance with the Long Valley Charter School Election Policy. The stakeholders are defined as parents of students enrolled at Long Valley Charter School and staff members.

The Charter School bylaws permit one representative of the ~~Fort Sage Unified School District Board of Trustees~~Authorizer, at its election, to sit on the Long Valley Charter School Board of Directors. ~~To prevent any real or perceived conflict of interest, the District representative shall not be a District staff member or a County staff member employed at Fort Sage Unified School District, nor shall he or she be a member of the District or County Board. This representative is to sit on the Board of Directors as a nonvoting member to facilitate communications and mutual understanding between Long Valley Charter School and Fort Sage Unified School District.~~

The Education Director[6] hired by the Long Valley Charter School Board of Directors is provided with an applicable job description and a contract approved by the Charter School Board of Directors. The Education Director implements the established direction and outcomes of the Charter School program in order to achieve the Charter School's goals and objectives and to further the Charter School's philosophy. The Education Director is responsible for:

- Recommendations for hiring and termination of certificated staff pursuant to Charter School personnel policy and subject to the Board of Directors approval
- Supervising and evaluating all certificated staff members of the Charter School
- Presenting an annual report of programs to the ~~District Board~~CDE/SBE and the Charter School Board of Directors
- Liaison between the Board of Directors and the ~~District Board~~CDE/SBE
- Liaison between the Board of Directors and the Advisory Council
- Liaison between the Charter School and the community

~~The Financial Director hired by the Long Valley Charter School Board of Directors is provided with an applicable job description and contract approved by the Charter School Board of Directors. The Financial Directory is responsible for:~~

- Overseeing a contract between the Board of Directors and a back office service provider for all fiscal and HR services including but not limited to:

[6] It is anticipated that the title of this position will be changed by the Board of Directors to be "Director".

- Budget preparation and presentation to the Board of Directors
- Preparing all legally required fiscal reports and all reports requested by the SBE/CDE
- Overseeing all daily and fiscal operations of the Charter School
- Presenting an annual financial report to the ~~District Board and the~~ Charter School Board of Directors and SBE and CDE
- Supervising and evaluating all classified staff members of the Charter School
- Liaison between the Board of Directors and the ~~District Board~~SBE/CDE
- Liaison between the Board of Directors and the Advisory Council
- Liaison between the Charter School and the community

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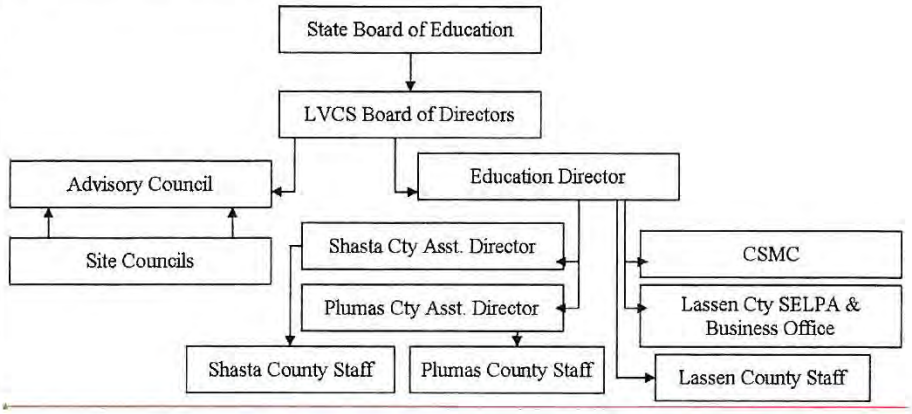
Long Valley Charter School currently utilizes the Charter School Management Corporation ("CSMC") for back office services. In future years, should the Board of Directors find that Long Valley Charter School could obtain financial and HR services in-house through its own personnel, meeting the same qualifications or better than CSMC for similar or better services at similar or better cost to the Charter School the Charter School shall consider bringing the requested services in-house.

The Long Valley Charter School formed an Advisory Council composed of equal members of staff, and parent/community members. The staff members consist of the Education Director, representatives of certificated and classified staff. School-wide problems are identified by means of a suggestion box or by stakeholders. The Advisory Council is the forum where these problems are first publicly discussed. The Advisory Council works to create solutions that are acceptable until consensus is reached, or all objections have been addressed. This Council has the opportunity to make educational and operational recommendations to the Long Valley Charter School Board of Directors and the Education Director. It works with parents to develop parental involvement strategies and policies, and to submit the policies to the Board of Directors for approval.

In addition to the governance structure illustrated in Figure 1, Long Valley Charter School incorporated a Community Advisory Board as a resource for the School Board and the Executive Director. The Community Advisory Board is comprised of qualified interested community members such as business owners, community leaders, politicians, and members of the professional community.

Figure 1: Governance Structure



~~Local Education Agency Fort Sage Unified School District~~			
~~LVCS Board of Directors~~			
~~LVCS Advisory Council~~		~~Education Director~~ ~~Financial Director~~	
~~Technology Committee~~	~~Visual & Performing Arts Committee~~	~~FSUSD Business Office/LCOE Business Office~~	~~LVCS Staff~~
~~Library Committee~~	~~Community Outreach Committee~~		

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The Long Valley Charter School is non-sectarian in its programs, admissions policies, employment practices, and all other operations, does not charge tuition, and does not discriminate on the characteristics listed in Education Code Section 220 (actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code or association with an individual who has any of the aforementioned characteristics).

V. Employee Qualifications

Governing Law: The qualifications to be met by individuals to be employed by the school. Education Code Section 47605(b)(5)(E).

The Long Valley Charter School retains or employs teaching staff who hold appropriate California teaching certificates, permits, or other documents issued by the Commission on Teacher Credentialing in accordance with Education Code Section 47605(l). These teachers teach the core academic classes of mathematics, language arts, science, and history/social studies. Core teachers are responsible for overseeing the students' academic progress, and for monitoring grading. All teachers of English Learners will be appropriately credentialed to serve English Learners, with a CLAD, BCLAD or other equivalent CTC recognized EL certification.

The Long Valley Charter School also employs or retains non-certificated instructional support staff, in any case where a prospective employee has an appropriate mix of subject matter expertise, professional experience, and the demonstrated capacity to work successfully in an instructional support capacity.

All instructional and non-instructional staff employed by Long Valley Charter School possess the experience and expertise appropriate for their position within the Charter School as outlined in the Charter School's job description, the Charter School's adopted personnel policies.

Long Valley Charter School requires that each employee and contractor of the Charter School submit to a criminal background check and furnish a criminal record summary as required by Education Code Sections 44237 and 45125.1.

The Education Director and two Assistant Directors must hold an Administrative Services Credential. A masters degree is preferred. All must have a minimum of three years of experience in independent study and five years of administrative experience in a public school setting. The three member administrative team of the Education Director and two Assistant Directors must have combined experience of administration of high school programs, elementary programs, and special education administration.

~~The Financial Director must hold a baccalaureate degree in business or a related field.~~

Persons employed in teaching positions must ~~hold a~~ be appropriately assigned within their valid California teaching credential and must be highly qualified in accordance with the applicable provisions of the No Child Left Behind Act. Attached and incorporated as Appendix F, please find a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will meet the requirements of highly qualified teachers under the No Child Left Behind Act as developed with the California Department of Education on May 23, 2012.

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Persons employed as paraprofessionals or paraeducators must be highly qualified by holding an associate degree or passing of the CODESP and receiving a certificate as a highly qualified paraprofessional/paraeducator.

VI. Health and Safety Procedures

Governing Law: The procedures the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237. Education Code Section 47605(b)(5)(F).

Long Valley Charter School adopted and implemented a comprehensive set of health, safety, and risk management policies, which are attached hereto as Attachment B. It is our intent to operate a safe, risk free school to protect students and staff alike. The policies were developed in consultation with the Charter School's insurance carriers address the following issues:

- A requirement that all enrolling students and staff provide records documenting immunizations to the extent required for enrollment in non-charter public schools.
- A requirement that each employee and contractor of the Charter School submit to a criminal background check and furnish a criminal record summary as required by Education Code Sections 44237 and 45125.1.
- A Policy requiring tuberculosis testing for employees.
- Policies and procedures for responding to emergencies and natural disasters.
- Policies and procedures for contacting parents or guardians in case of an emergency.
- Policies relating to the prevention of exposure to blood borne pathogens and communicable diseases.
- A policy relating to the administration of medication in school. ~~We have a procedure that but not a Board Policy.~~
- A policy requiring that instructional staff receive training in emergency response, including "first responder" training or an equivalent.
- A policy establishing that Long Valley Charter School operates as a drug, alcohol, and tobacco free workplace. ~~I cannot find this policy as a Board Policy. It is in our Employee Handbook.~~
- A policy for the prevention of sexual harassment.
- A policy for detecting and reporting child abuse and neglect. ~~In Employee Handbook.~~
- A policy for facility safety, including seismic safety.
- A policy requiring the completion of the California School Immunization Record including proof of examination for tuberculosis to determine if immunization requirements have been met, using the "California "Immunization Requirements for Grades K-12." The Charter School will participate in the annual vision, hearing, and scoliosis~~, and diabetes~~ screening provided by the Lassen County Office of Education. The Charter School will adhere to Education Code Section 49450, *et seq.*, as applicable to the grade levels served by the Charter School.
- Diabetes: The Charter School will provide an information sheet regarding type 2 diabetes to the parent or guardian of incoming 7th grade students, pursuant to Education Code Section 49452.7. The information sheet shall include, but shall not be limited to, all of the following: (1) A description of type 2 diabetes; (2) A description of the risk factors

and warning signs associated with type 2 diabetes; (3) A recommendation that students displaying or possibly suffering from risk factors or warning signs associated with type 2 diabetes should be screened for type 2 diabetes; (4) A description of treatments and prevention of methods of type 2 diabetes; and (5) A description of the different types of diabetes screening tests available.

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The policies above are incorporated as appropriate into the Charter School's handbook, and are reviewed annually or as necessary, by the Charter School's Advisory Council. Revisions are submitted to the Board of Directors for approval.

VII. Racial and Ethnic Balance

Governing Law: The means by which the school will achieve the racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the district to which the charter petition is submitted. Education Code Section 47605(b)(5)(G).

Long Valley Charter School does not discriminate against any student or employee on the basis of the characteristics listed in Education Code Section 220 (actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code or association with an individual who has any of the aforementioned characteristics). Each student who attends Long Valley Charter School does so on a voluntary basis, and the program appeals to all people. The Long Valley Charter School implemented a student and employee recruitment strategy that included, but is not limited to the following elements to ensure a racial and ethnic balance that is reflective of the general population residing within the territorial jurisdiction of the District:

- Promotional and informational materials that appeal to all of the various racial and ethnic groups represented in the District.
- Development of the above materials in languages other than English to appeal to populations with limited English proficiency.
- The service of Spanish speaking staff, when available, to facilitate communication for limited English proficient parents and community members.
- Implementation of a translating program to convert English to Spanish for the purpose of written Charter School communication.

The outreach plan will be regularly reviewed and revised as necessary to ensure a racial and ethnic balance that is reflective of the general population residing within the territorial jurisdiction of the District. Although the law requires the Long Valley charter to address how it will align its population with that of the District, as Long Valley operates resource centers within its county and adjacent counties, further, efforts will be made and regularly reviewed to reflect racial and ethnic balance within each community where its resource centers are located.

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VIII. Admission Requirements

Governing Law: Admission requirements, if applicable. Education Code Section 47605(b)(5)(H).

Students are considered for admission without regard to ethnicity, national origin, gender, disability, religion, or achievement level or any other characteristic described in Education Code Section 220. Admission to the site based school is open to any resident of California. Independent study students must be residents of Lassen County or adjacent counties. Prospective students and their parents or guardians receive material regarding the Charter School's instructional and operational philosophy, and student-related policies. Upon enrollment, students and parents are required to agree to comply with rules and regulations of the student/parent handbook, and commit to attend school every day.

In the event there are more applicants than capacity, attendance, except for existing pupils, will be determined by public random drawing. The following priorities will be utilized in the event of a random public drawing: ~~Long Valley Charter School adopted and maintains policies granting admissions preference to families~~

1. Students who live in the previously established attendance area of Long Valley ~~Charter~~ School~~.~~
2. ~~siblings~~ Siblings of existing students who reside within the District~~,~~
3. Siblings of existing students who reside outside the District
4. ~~the children~~ Children of staff members who reside within the District~~.~~
5. Children of staff members who reside outside of the District
6. ~~and those students~~ Students on the previous year's wait list who reside within the District.
7. Students on the previous year's wait list who reside outside of the District
8. All other District residents
9. All other applicants

~~Subsequent preference is given to students who live in District boundaries.~~ The student enrollment capacity level is set by the Long Valley Charter School Board of Directors. Students who do not achieve enrollment through the public random drawing are placed on a waiting list for enrollment, in the order in which their names were drawn in the public random drawing. They will be contacted in accordance with their number on the list, as vacancies in their appropriate grade levels become available. The Charter School's Admissions and Attendance Polices are attached hereto as Attachment D.

The Long Valley Charter School requests parents or guardians to participate at the Charter School by volunteering. Participation activities will be outlined in the Parent Student Handbook.

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IX. Annual Financial Audits

Governing Law: The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority." Education Code Section 47605 (b)(5)(I).

An annual independent fiscal audit of the books and records of the Charter School will be conducted as required by Education Code Sections 47605(b)(5)(I) and 47605(m). The books and records of the Charter School will be kept in accordance with generally accepted accounting principles, and as required by applicable law and the audit will employ generally accepted accounting procedures. The audit shall be conducted in accordance with applicable provisions within the California Code of Regulations governing audits of charter schools as published in the State Controllers Guide.

The Board of Directors will select an independent auditor through a request for proposal format. The auditor will have, at a minimum, a CPA and educational institution audit experience and approved by the State Controller on its published list as an educational audit provider. To the extent required under applicable federal law, the audit scope will be expanded to include items and processes specified in applicable Office of Management and Budget Circulars.

The annual audit will be completed and forwarded to the ~~District, the County Superintendent of Schools, the~~ State Controller~~,~~ and to the CDE by the 15th of December of each year. The Educational Director and the Finance Director will review any audit exceptions or deficiencies and report to the Charter School Board of Directors with recommendations on how to resolve them. The Board will submit a report to the ~~District~~ SBE/CDE describing how the exceptions and deficiencies have been or will be resolved to the satisfaction of the ~~District~~ SBE along with an anticipated timeline for the same. Audit appeals or requests for summary review shall be submitted to the Education Audit Appeals Panel ("EAAP") in accordance with applicable law.

The independent fiscal audit of the Charter School is public record to be provided to the public upon request.

X. Suspension or Expulsion Procedures

Governing Law: The procedures by which pupils can be suspended or expelled." Education Code Section 47605(b)(5)(J).

~~The Long Valley Charter School developed and maintains a complete set of student discipline policies, which comply with state and federal due process requirements for both general and special education students, and which are attached hereto as Attachment E. These policies are included in, and distributed as part of the Charter School handbook, and clearly outline the Charter School's expectations regarding attendance, mutual respect, violence, safety issues, work habits, and substance abuse policy. Each student and his or her parent or guardian will be required to sign an agreement that he or she has reviewed and understands the Charter School's policies upon enrollment.~~

~~Long Valley Charter School shall notify the Fort Sage Unified School District of any expulsions.~~

This Pupil Suspension and Expulsion Policy has been established in order to promote learning and protect the safety and well being of all students at the Charter School. When the Policy is violated, it may be necessary to suspend or expel a student from regular classroom instruction. This policy shall serve as the Charter School's policy and procedures for student suspension and expulsion and it may be amended from time to time without the need to amend the charter so long as the amendments comport with legal requirements. Charter School staff shall enforce disciplinary rules and procedures fairly and consistently among all students. This Policy and its Procedures will be printed and distributed as part of the Student Handbook and will clearly describe discipline expectations. Corporal punishment shall not be used as a disciplinary measure against any student. Corporal punishment includes the willful infliction of or willfully causing the infliction of physical pain on a student. For purposes of the Policy, corporal punishment does not include an employee's use of force that is reasonable and necessary to protect the employee, students, staff or other persons or to prevent damage to school property.

The Charter School administration shall ensure that students and their parents/guardians are notified in writing upon enrollment of all discipline policies and procedures. The notice shall state that this Policy and Procedures are available on request at the Education Director's office.

Suspended or expelled students shall be excluded from all school and school-related activities unless otherwise agreed during the period of suspension or expulsion.

A student identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities Education Improvement Act of 2004 ("IDEIA") or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 ("Section 504") is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to general education students except when federal and state law mandates additional or different procedures. The Charter School will follow all applicable federal and state laws including but not limited to the California Education Code, when imposing any form of discipline on a student identified as an individual with disabilities or for whom the Charter School has a basis of knowledge of a

suspected disability or who is otherwise qualified for such services or protections in according due process to such students.

A. Grounds for Suspension and Expulsion of Students

A student may be suspended or expelled for prohibited misconduct if the act is related to school activity or school attendance occurring at anytime including but not limited to: a) while on school grounds; b) while going to or coming from school; c) during the lunch period, whether on or off the school campus; d) during, going to, or coming from a school-sponsored activity.

B. Enumerated Offenses

1. Discretionary Suspension Offenses. Students may be suspended for any of the following acts when it is determined the pupil:

a) Caused, attempted to cause, or threatened to cause physical injury to another person.

b) Willfully used force of violence upon the person of another, except self-defense.

c) Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.

d) Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.

e) Committed or attempted to commit robbery or extortion.

f) Caused or attempted to cause damage to school property or private property.

g) Stole or attempted to steal school property or private property.

h) Possessed or used tobacco or products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This section does not prohibit the use of his or her own prescription products by a pupil.

i) Committed an obscene act or engaged in habitual profanity or vulgarity.

j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.

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k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.

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l) Knowingly received stolen school property or private property.

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m) Possessed an imitation firearm, i.e.: a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

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n) Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.

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o) Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.

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p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

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q) Engaged in, or attempted to engage in hazing. For the purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this section, "hazing" does not include athletic events or school-sanctioned events.

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r) Made terrorist threats against school officials and/or school property. For purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.

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s) Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 must be

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considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.

t) Caused, attempted to cause, threaten to cause or participated in an act of hate violence, as defined in subdivision (e) of Section 233 of the Education Code. This section shall apply to pupils in any of grades 4 to 12, inclusive.

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u) Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading student rights by creating an intimidating or hostile educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.

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v) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261 of the Education Code, directed specifically toward a pupil or school personnel.

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w) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1).

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x) Possessed, sold, or otherwise furnished any knife unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the Education Director or designee's concurrence.

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2. Non- Discretionary Suspension Offenses: Students must be suspended and recommended for expulsion for any of the following acts when it is determined the pupil:

a) Possessed, sold, or otherwise furnished any firearm, explosive, or other dangerous object unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee, with the Education Director or designee's concurrence.

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3. Discretionary Expellable Offenses: Students may be expelled for any of the following acts when it is determined the pupil:

a) Caused, attempted to cause, or threatened to cause physical injury to another person.

b) Willfully used force of violence upon the person of another, except self-defense.

c) Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage, or intoxicant of any kind.

d) Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code Sections 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented same as controlled substance, alcoholic beverage or intoxicant.

e) Committed or attempted to commit robbery or extortion.

f) Caused or attempted to cause damage to school property or private property.

g) Stole or attempted to steal school property or private property.

h) Possessed or used tobacco or products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel. This section does not prohibit the use of his or her own prescription products by a pupil.

i) Committed an obscene act or engaged in habitual profanity or vulgarity.

j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.

k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.

l) Knowingly received stolen school property or private property.

m) Possessed an imitation firearm, i.e.: a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

n) Committed or attempted to commit a sexual assault as defined in Penal Code Sections 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code Section 243.4.

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o) Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.

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q) Engaged in, or attempted to engage in hazing. For the purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this section, "hazing" does not include athletic events or school-sanctioned events.

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r) Made terrorist threats against school officials and/or school property. For purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.

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s) Committed sexual harassment, as defined in Education Code Section 212.5. For the purposes of this section, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.

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u) Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading student rights by

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creating an intimidating or hostile educational environment. This section shall apply to pupils in any of grades 4 to 12, inclusive.

v) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261 of the Education Code, directed specifically toward a pupil or school personnel.

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w) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (1).

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x) Possessed, sold, or otherwise furnished any knife unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the Education Director or designee's concurrence.

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4. Non -Discretionary Expellable Offenses: Students must be expelled for any of the following acts when it is determined pursuant to the procedures below that the pupil:

a) Possessed, sold, or otherwise furnished any firearm, explosive, or other dangerous object unless, in the case of possession of any object of this type, the students had obtained written permission to possess the item from a certificated school employee, with the Education Director or designee's concurrence.

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If it is determined by the Board of Directors that a student has brought a fire arm or destructive device, as defined in Section 921 of Title 18 of the United States Code, on to campus or to have possessed a firearm or dangerous device on campus, the student shall be expelled for one year, pursuant to the Federal Gun Free Schools Act of 1994.

The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

The term "destructive device" means (A) any explosive, incendiary, or poison gas, including but not limited to: (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses.

C. Suspension Procedure

Suspensions shall be initiated according to the following procedures:

1. Conference

Suspension shall be preceded, if possible, by a conference conducted by the Education Director or the Education Director's designee with the student and his or her parent and, whenever practical, the teacher, supervisor or Charter School employee who referred the student to the Education Director or designee.

The conference may be omitted if the Education Director or designee determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or Charter School personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference.

At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense. This conference shall be held within two school days, unless the pupil waives this right or is physically unable to attend for any reason including, but not limited to, incarceration or hospitalization. No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with Charter School officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

2. Notice to Parents/Guardians

At the time of the suspension, an administrator or designee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension and the date of return following suspension. This notice shall state the specific offense committed by the student. In addition, the notice may also state the date and time when the student may return to school. If Charter School officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may request that the parent/guardian respond to such requests without delay.

3. Suspension Time Limits/Recommendation for Expulsion

Suspensions, when not including a recommendation for expulsion, shall not exceed five (5) consecutive school days per suspension. Upon a recommendation of Expulsion by the Education Director or Education Director's designee, the pupil and the pupil's guardian or representative will be invited to a conference to determine if the suspension for the pupil should be extended pending an expulsion hearing. This determination will be made by the Education Director or designee upon either of the following: 1) the pupil's presence will be disruptive to the education process; or 2) the pupil poses a threat or danger to others. Upon

either determination, the pupil's suspension will be extended pending the results of an expulsion hearing.

D. Authority to Expel

A student may be expelled either by the Charter School Board following a hearing before it or by the Charter School Board upon the recommendation of an Administrative Panel to be assigned by the Board as needed. The Administrative Panel should consist of at least three members who are certificated and neither a teacher of the pupil or a Board member of the Charter School's governing board. The Administrative Panel may recommend expulsion of any student found to have committed an expellable offense.

E. Expulsion Procedures

Students recommended for expulsion are entitled to a hearing to determine whether the student should be expelled. Unless postponed for good cause, the hearing shall be held within thirty (30) school days after the Education Director or designee determines that the Pupil has committed an expellable offense.

In the event an administrative panel hears the case, it will make a recommendation to the ES Board for a final decision whether to expel. The hearing shall be held in closed session (complying with all pupil confidentiality rules under FERPA) unless the Pupil makes a written request for a public hearing three (3) days prior to the hearing.

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten (10) calendar days before the date of the hearing. Upon mailing the notice, it shall be deemed served upon the pupil. The notice shall include:

1) The date and place of the expulsion hearing;
2) A statement of the specific facts, charges and offenses upon which the proposed expulsion is based;
3) A copy of the Charter School's disciplinary rules which relate to the alleged violation;
4) Notification of the student's or parent/guardian's obligation to provide information about the student's status at the Charter School to any other school district or school to which the student seeks enrollment;
5) The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel or a non-attorney advisor;
6) The right to inspect and obtain copies of all documents to be used at the hearing;
7) The opportunity to confront and question all witnesses who testify at the hearing;
8) The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf including witnesses.

F. Special Procedures for Expulsion Hearings Involving Sexual Assault or Battery Offenses

The Charter School may, upon a finding of good cause, determine that the disclosure of either the identity of the witness or the testimony of that witness at the hearing, or both, would subject

the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations that shall be examined only by the Charter School or the hearing officer. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

1. The complaining witness in any sexual assault or battery case must be provided with a copy of the applicable disciplinary rules and advised of his/her right to (a) receive five days notice of his/her scheduled testimony, (b) have up to two (2) adult support persons of his/her choosing present in the hearing at the time he/she testifies, which may include a parent, guardian, or legal counsel, and (c) elect to have the hearing closed while testifying.

2. The Charter School must also provide the victim a room separate from the hearing room for the complaining witness' use prior to and during breaks in testimony.

3. At the discretion of the person or panel conducting the hearing, the complaining witness shall be allowed periods of relief from examination and cross-examination during which he or she may leave the hearing room.

4. The person conducting the expulsion hearing may also arrange the seating within the hearing room to facilitate a less intimidating environment for the complaining witness.

5. The person conducting the expulsion hearing may also limit time for taking the testimony of the complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours.

6. Prior to a complaining witness testifying, the support persons must be admonished that the hearing is confidential. Nothing in the law precludes the person presiding over the hearing from removing a support person whom the presiding person finds is disrupting the hearing. The person conducting the hearing may permit any one of the support persons for the complaining witness to accompany him or her to the witness stand.

7. If one or both of the support persons is also a witness, the Charter School must present evidence that the witness' presence is both desired by the witness and will be helpful to the Charter School. The person presiding over the hearing shall permit the witness to stay unless it is established that there is a substantial risk that the testimony of the complaining witness would be influenced by the support person, in which case the presiding official shall admonish the support person or persons not to prompt, sway, or influence the witness in any way. Nothing shall preclude the presiding officer from exercising his or her discretion to remove a person from the hearing whom he or she believes is prompting, swaying, or influencing the witness.

8. The testimony of the support person shall be presented before the testimony of the complaining witness and the complaining witness shall be excluded from the courtroom during that testimony.

9. Especially for charges involving sexual assault or battery, if the hearing is to be conducted in the public at the request of the pupil being expelled, the complaining witness shall have the right to have his/her testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm. The alternative procedures may include videotaped depositions or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.

10. Evidence of specific instances of a complaining witness' prior sexual conduct is presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before such a determination regarding extraordinary circumstance can be made, the witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

G. Record of Hearing

A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

H. Presentation of Evidence

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. A recommendation by the Administrative Panel to expel must be supported by substantial evidence that the student committed an expellable offense. Findings of fact shall be based solely on the evidence at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay. Sworn declarations may be admitted as testimony from witnesses of whom the Board, Panel or designee determines that disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

If, due to a written request by the expelled pupil, the hearing is held at a public meeting, and the charge is committing or attempting to commit a sexual assault or committing a sexual battery as defined in Education Code Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public.

The decision of the Administrative Panel shall be in the form of written findings of fact and a written recommendation to the Board who will make a final determination regarding the expulsion. The final decision by the Board shall be made within ten (10) school days following

the conclusion of the hearing. The Decision of the Board is final.

If the Administrative Panel decides not to recommend expulsion, the pupil shall immediately be returned to his/her educational program.

I. Written Notice to Expel

The Education Director or designee following a decision of the Board to expel shall send written notice of the decision to expel, including the Board's adopted findings of fact, to the student or parent/guardian. This notice shall also include the following: Notice of the specific offense committed by the student; and Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the Charter School.

The Education Director or designee shall send a copy of the written notice of the decision to expel to the authorizer. This notice shall include the following: a) The student's name b) The specific expellable offense committed by the student

J. Disciplinary Records

The Charter School shall maintain records of all student suspensions and expulsions at the Charter School. Such records shall be made available to the authorizer upon request.

K. No Right to Appeal

The pupil shall have no right of appeal from expulsion from the Charter School as the Charter School Board's decision to expel shall be final.

L. Expelled Pupils/Alternative Education

Pupils who are expelled shall be responsible for seeking alternative education programs including, but not limited to, programs within the County or their school district of residence. The Charter School shall work cooperatively with parents/guardians as requested by parents/guardians or by the school district of residence to assist with locating alternative placements during expulsion.

M. Rehabilitation Plans

Students who are expelled from the Charter School shall be given a rehabilitation plan upon expulsion as developed by the Board at the time of the expulsion order, which may include, but is not limited to, periodic review as well as assessment at the time of review for readmission. The rehabilitation plan should include a date not later than one year from the date of expulsion when the pupil may reapply to the Charter School for readmission.

N. Readmission

The decision to readmit a pupil or to admit a previously expelled pupil from another school district or charter school shall be in the sole discretion of the Board following a meeting with the Education Director or designee and the pupil and guardian or representative to determine whether the pupil has successfully completed the rehabilitation plan and to determine whether the pupil poses a threat to others or will be disruptive to the school environment. The Education Director or designee shall make a recommendation to the Board following the meeting regarding his or her determination. The pupil's readmission is also contingent upon the Charter School's capacity at the time the student seeks readmission.

O. Special Procedures for the Consideration of Suspension and Expulsion of Students with Disabilities

1. Notification of SELPA

The Charter School shall immediately notify the SELPA and coordinate the procedures in this policy with the SELPA of the discipline of any student with a disability or student who the Charter School or SELPA would be deemed to have knowledge that the student had a disability

2. Services During Suspension

Students suspended for more than ten (10) school days in a school year shall continue to receive services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP/504 Plan; and receive, as appropriate, a functional behavioral assessment or functional analysis, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur. Theses services may be provided in an interim alterative educational setting.

3. Procedural Safeguards/Manifestation Determination

Within ten (10) school days of a recommendation for expulsion or any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the Charter School, the parent, and relevant members of the IEP/504 Team shall review all relevant information in the student's file, including the child's IEP/504 Plan, any teacher observations, and any relevant information provided by the parents to determine:

a) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

b) If the conduct in question was the direct result of the local educational agency's failure to implement the IEP/504 Plan.

If the Charter School, the parent, and relevant members of the IEP/504 Team determine that either of the above is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

If the Charter School, the parent, and relevant members of the IEP/504 Team make the determination that the conduct was a manifestation of the child's disability, the IEP/504 Team shall:

a) Conduct a functional behavioral assessment or a functional analysis assessment, and implement a behavioral intervention plan for such child, provided that the Charter School had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement;

b) If a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and

c) Return the child to the placement from which the child was removed, unless the parent and the Charter School agree to a change of placement as part of the modification of the behavioral intervention plan.

If the Charter School, the parent, and relevant members of the IEP/504 team determine that the behavior was not a manifestation of the student's disability and that the conduct in question was not a result of the failure to implement the IEP/504 Plan, then the Charter School may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities.

4. Due Process Appeals

The parent of a child with a disability who disagrees with any decision regarding placement, or the manifestation determination, or the Charter School believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request an expedited administrative hearing through the Special Education Unit of the Office of Administrative Hearings or by utilizing the dispute provisions of the 504 Policy and Procedures.

When an appeal relating to the placement of the student or the manifestation determination has been requested by either the parent or the Charter School, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day time period provided for in an interim alternative educational setting, whichever occurs first, unless the parent and the Charter School agree otherwise.

5. Special Circumstances

Charter School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

The Education Director or designee may remove a student to an interim alternative educational setting for not more than forty-five (45) days without regard to whether the behavior is determined to be a manifestation of the student's disability in cases where a student:

a) Carries or possesses a weapon, as defined in 18 USC 930, to or at school, on school premises, or to or at a school function;

b) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function; or

c) Has inflicted serious bodily injury, as defined by 20 USC 1415(k)(7)(D), upon a person while at school, on school premises, or at a school function.

6. Interim Alternative Educational Setting

The student's interim alternative educational setting shall be determined by the student's IEP/504 team.

7. Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been identified as an individual with disabilities pursuant to IDEIA and who has violated the Charter School's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the Charter School had knowledge that the student was disabled before the behavior occurred.

The Charter School shall be deemed to have knowledge that the student had a disability if one of the following conditions exists:

a) The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, to Charter School supervisory or administrative personnel, or to one of the child's teachers, that the student is in need of special education or related services.

b) The parent has requested an evaluation of the child.

c) The child's teacher, or other Charter School personnel, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other Charter School supervisory personnel.

If the Charter School knew or should have known the student had a disability under any of the three (3) circumstances described above, the student may assert any of the protections available to IDEIA-eligible children with disabilities, including the right to stay-put.

If the Charter School had no basis for knowledge of the student's disability, it shall proceed with the proposed discipline. The Charter School shall conduct an expedited evaluation if requested by the parents; however the student shall remain in the education placement determined by the Charter School pending the results of the evaluation.

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The Charter School shall not be deemed to have knowledge of that the student had a disability if the parent has not allowed an evaluation, refused services, or if the student has been evaluated and determined to not be eligible.

XI. Employee Retirement System

Governing Law: The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security." Education Code Section 47605(b)(5)(K).

Certificated ~~Employees~~ employees may participate in the State Teachers' Retirement System ("STRS"). All other employees may participate in ~~and~~ federal Social Security~~, or other retirement systems depending on each individual's eligibility, choice, and current law~~. The Financial Director or designee is responsible for ensuring that appropriate arrangements for retirement coverage have been made for all employees.

XII. Attendance Alternatives

Governing Law: The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools. Education Code Section 47605(b)(5)(L).

Enrollment at the Long Valley Charter School is entirely voluntary on the part of the students who attend. The traditional program of ~~Fort Sage Unified School District~~ local school districts continues to be an option for all students who choose not to enroll in the Charter School.

On admissions forms, t~~T~~he Charter School will inform the parent or guardian of each pupil enrolled in the Charter School that the pupils have no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the Charter School, except to the extent that such a right is extended by the local education agency.

XIII. Employee Rights

Governing Law: A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school. Education Code Section 47605(b)(5)(M).

No public school district employee shall be required to work at the Charter School. Employees of the District who choose to leave the employment of the District to work at the Charter School will have no automatic rights of return to the District after employment by the Charter School unless specifically granted by the District through a leave of absence or other agreement. Charter School employees shall have any right upon leaving the District to work in the Charter School that the District may specify, any rights of return to employment in a school district after employment in the school that the District may specify, and any other rights upon leaving employment to work in the school that the District determines to be reasonable and not in conflict with any law.

All employees of the Charter School will be considered the exclusive employees of the Charter School and not of the District, unless otherwise mutually agreed in writing. Sick or vacation leave or years of service credit at the District or any other school district will not be transferred to the Charter School. Employment by the Charter School provides no rights of employment at any other entity, including any rights in the case of closure of the Charter School.

XIV. Dispute Resolution Process

Governing Law: The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter. Education Code Section 47605(b)(5)(N).

Intent. It is the intent of our dispute resolution process to:

- Resolve disputes within the Charter School pursuant to the Charter School's policies
- Minimize oversight burden on the ~~District~~CDE
- Ensure prompt and fair resolution to disputes

Public Comment. The staff and Governing Board of the Charter School and the ~~District~~ authorizer agree to attempt to resolve all disputes regarding this charter pursuant to the terms of this section. Both shall refrain from public commentary regarding any disputes until the matter has progressed through the resolution process.

Disputes between the Charter School and the Charter-Granting Agency. In the event that the Charter School or granting agency has disputes regarding the terms of this charter or any other issue regarding the Charter School and grantor's relationship, both parties agree to follow the process outlined below. The "oversight reporting and revocation procedure" set forth below is specifically exempted from this mediation procedure.

In the event of a dispute between the Charter School and the grantor, the staff and members of Board of Directors of the Charter School and ~~District~~ the SBE administration agree to first frame the issue in written format, and refer the issue to the superintendent of the granting agency and education director or designee of the Charter School. In the event that the grantor believes that the dispute relates to an issue that could lead to the revocation of the charter, the Charter School requests that this shall be specifically noted in the written dispute statement. The Charter School agrees that these dispute resolution procedures cannot be utilized to impede or prevent the ~~District~~ SBE from proceeding toward revocation or non-renewal which shall be done in accordance with Education Code Section 47607.

The Education Director, or designee, and ~~Superintendent~~ representatives of the SBE shall informally meet and confer in a timely fashion to attempt to resolve the dispute. In the event that this informal meeting fails to resolve the dispute, both parties shall identify two ~~Governing Board members~~ representatives ~~from~~ of their respective boards who shall jointly meet with the ~~Superintendent~~ representative of the ~~District or County~~SBE and Education Director or designee of the Charter School and attempt to resolve the dispute.

If this joint meeting fails to resolve the dispute, the ~~Superintendent~~ SBE representative and Education Director, or designee, shall meet to jointly identify a neutral, third party mediator whose expense shall be shared equally by both parties. The format of the mediation session shall be developed jointly by the ~~Superintendent~~ SBE representative and Education Director or designee. If mediation does not resolve the dispute either party may pursue any other remedy available under the law. All procedures in this section may be revised upon mutual written

agreement of the ~~District~~ SBE and the Charter School. The cost of mediation shall be equally spilt between the ~~District~~ SBE and the Charter School.

Long Valley Charter School recognizes that the State Board of Education may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in this charter, provided that it first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter. If the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code Section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.

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Oversight Reporting and Revocation. The ~~Fort Sage Unified School District~~SBE/CDE may inspect or observe any part of the Charter School at any time. While not legally required, the Charter School asks, but recognizes it cannot compel, reasonable notice prior to any observation or inspection.

This charter may be revoked or non-renewed by the authority that granted the charter~~, the District Board of Trustees,~~ pursuant to Education Code Section 47607.

If the ~~Governing Board of the District~~ SBE believes it has cause to revoke this charter, the ~~board~~ SBE agrees to notify the Board of Directors of the School in writing, noting the specific reasons for which the charter may be revoked, and grant the School reasonable time to respond to the notice and take appropriate corrective action.

XV. Public School Employer

Governing Law: A declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code). Education Code Section 47605(b)(5)(O).

The Charter School shall be deemed the exclusive public school employer of the employees of the Charter School for the purposes of the Educational Employment Relations Act ("EERA"). The Charter School recognizes the employees' rights under the EERA provisions to organize for collective bargaining.

XVI. Closure

Governing Law: A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records. Education Code Section 47605(b)(5)(P).

Closure of the Charter School will be documented by official action of the Board of Directors. The action will identify the reason for closure. The official action will also identify an entity and person or persons responsible for closure-related activities.

The Board of Directors will promptly notify parents and students of the Charter School, ~~the District, the Lassen County Office of Education,~~ the Charter School's SELPA, the retirement systems in which the Charter School's employees participate (e.g., Public Employees' Retirement System, State Teachers' Retirement System, and federal social security), and the California Department of Education of the closure as well as the effective date of the closure. This notice will also include the name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure; the pupils' school districts of residence; and the manner in which parents/guardians may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements.

The Board will ensure that the notification to the parents and students of the Charter School of the closure provides information to assist parents and students in locating suitable alternative programs. This notice will be provided promptly following the Board's decision to close the Charter School.

The Board will also develop a list of pupils in each grade level and the classes they have completed, together with information on the pupils' districts of residence, which they will provide to the entity responsible for closure-related activities.

As applicable, the Charter School will provide parents, students and the ~~District~~ CDE with copies of all appropriate student records and will otherwise assist students in transferring to their next school. All transfers of student records will be made in compliance with the Family Educational Rights and Privacy Act ("FERPA") 20 U.S.C. § 1232g. The Charter School will ask the ~~District~~County Office of Education -to store original records of Charter School students. All records of the Charter School shall be transferred to the ~~District~~ County Office of Education upon Charter School closure. If the ~~District~~ County Office of Education will not or cannot store the records, the Charter School shall work with the County Office of Education to determine a suitable alternative location for storage.

All state assessment results, special education records, and personnel records will be transferred to and maintained by the entity responsible for closure-related activities in accordance with applicable law.

As soon as reasonably practical, the Charter School will prepare final financial records. The Charter School will also have an independent audit completed within six months after closure.

The Charter School will pay for the final audit. The audit will be prepared by a qualified Certified Public Accountant selected by the Charter School and will be provided to the ~~District~~ SBE/CDE promptly upon its completion. The final audit will include an accounting of all financial assets, including cash and accounts receivable and an inventory of property, equipment, and other items of material value, an accounting of the liabilities, including accounts payable and any reduction in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation, and an assessment of the disposition of any restricted funds received by or due to the Charter School.

The Charter School will complete and file any annual reports required pursuant to Education Code Section 47604.33.

On closure of the Charter School, all assets of the Charter School, including but not limited to all leaseholds, personal property, intellectual property and all ADA apportionments and other revenues generated by students attending the Charter School, remain the sole property of the Charter School and shall be distributed in accordance with the Articles of Incorporation upon the dissolution of the non-profit public benefit corporation to another California public educational entity. Any assets acquired from the ~~District~~ SBE/CDE or ~~District~~ SBE/CDE property will be promptly returned upon Charter School closure to the ~~District~~SBE/CDE. The distribution shall include return of any grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law, as appropriate, which may include submission of final expenditure reports for entitlement grants and the filing of any required Final Expenditure Reports and Final Performance Reports, as well as the return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

On closure, the Charter School shall remain solely responsible for all liabilities arising from the operation of the Charter School.
As the Charter School is operated as a non-profit public benefit corporation, should the corporation dissolve with the closure of the Charter School, the Board will follow the procedures set forth in the California Corporations Code for the dissolution of a non-profit public benefit corporation and file all necessary filings with the appropriate state and federal agencies.

As specified by the Budget ~~in Exhibit ___~~, the Charter School will utilize the reserve fund to undertake any expenses associated with the closure procedures identified above.

XVII. Financial Planning, Reporting, And Accountability

Budgets and Financial Plan

Governing Law: The petitioner or petitioners shall also be required to provide financial statements that include a proposed first year operational budget, including startup costs, and cash flow and financial projections for the first three years of operation. -- Education Code Section 47605(g)

A multi-year financial plan for the Charter School is attached. This plan is based on the best data available to the developers at the time the plan was assembled. Attached as Appendix ~~F~~ G, please find the following documents:

1. A projected annual budget
2. An interim financial report as of October 31

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Financial and Programmatic Reporting

Budget and Financial Reporting Schedule

The Charter School will annually prepare and submit to the ~~District~~CDE:

- On or before July 1st, a final budget
- On or before December 15th, an interim financial report which reflects changes to the final budget through October 31st Additionally, on December 15, a copy of the Charter School's annual, independent financial audit report for the preceding fiscal year shall be delivered to the ~~District.~~ State Controller and~~.~~ State Department of Education ~~and County Superintendent of Schools~~
- On or before March 15th, a second interim financial report which reflects changes to the final budget through January 31st
- On or before September 15th, a final unaudited financial report for the prior full fiscal year

Attendance Accounting

The Charter School will implement an attendance recording and accounting system, to ensure contemporaneous record keeping, which complies with state law.

Reporting

The Charter School will provide reporting to the ~~District~~ CDE as required by law and as requested by the ~~District~~ CDE including but not limited to the following: California Basic Educational Data System (CBEDS), actual Average Daily Attendance reports, all financial

reports required by Education Code Sections 47604.33 and 47605(m) (as stated above) and the School Accountability Report Card (SARC).

The Charter School agrees to and submits to the right of the ~~District~~ SBE/CDE to make random visits and inspections in order to carry out its statutorily required oversight.

Pursuant to Education Code Section 47604.3 the Charter School shall promptly respond to all reasonable inquiries including, but not limited to inquiries regarding its financial records from ~~the District, the County Office of Education, and~~ the State Superintendent of Public Instruction.

Insurance

The ~~District~~ SBE/CDE shall not be required to provide coverage to the Charter School under any of the ~~District's~~ SBE/CDE self-insured programs or commercial insurance policies. The Charter School shall secure and maintain, as a minimum, insurance as set forth below to protect the Charter School from claims which may arise from its operations. The following insurance policies are required:

1. Workers' Compensation Insurance in accordance with provisions of the California Labor Code, adequate to protect the Charter School from claims under Workers' Compensation Acts, which may arise from its operations.

2. General Liability, Comprehensive Bodily Injury and Property Damage Liability for combined single limit coverage of not less than $1,000,000 for each occurrence based upon the recommendation of the insurance provider for schools of similar size, location, and type of program. The policy shall be endorsed to name the ~~District its Board of Education~~ SBE as additional insured~~r~~s.

3. Fidelity Bond coverage shall be maintained by the Charter School to cover all Charter School employees who handle, process, or otherwise have responsibility for Charter School funds, supplies, equipment or other assets. Minimum amount of coverage shall be $50,000 per occurrence, with no self-insured retention.

4. Directors and Officers Coverage shall be maintained by the Charter School to cover its Board of Directors.

Insurance Certificates

The Charter School shall keep on file certificates signed by an authorized representative of the insurance carrier. Certificates shall be endorsed as follows: The insurance afforded by this policy shall not be suspended, cancelled, reduced in coverage or limits or non-renewed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the ~~district~~SBE/CDE. Facsimile or reproduced signatures are not acceptable. The ~~District~~ SBE/CDE reserves the right to require complete certified copies of the required insurance policies.

Administrative Services

Governing Law: The manner in which administrative services of the School are to be provided. Education Code Section 47605(g).

Long Valley Charter School will do its own accounting and be its own fiscal agent and may contract for management, educational and other services. Any services provided by the District to the Charter School shall be contracted on a fee for services basis, to be addressed in a memorandum of understanding.

~~A fiscal reconciliation plus or minus will come within 90 days of the close of the District's fiscal year. The Charter School will bear the cost of an audit at the close of each school year.~~

Facilities

Governing Law: The facilities to be utilized by the school. The description of facilities to be used by the charter school shall specify where the school intends to locate. Education Code Section 47605(G); A petition for the establishment of a charter school shall identify a single charter school that will operate within the geographic boundaries of that school district. Education Code Section 47605(a)(1)

School Location

The Long Valley Charter School has leased ~~was granted~~ the use of the property, facility, educational materials and equipment, and furnishings knows as Long Valley School that is located on parcel AP#141-060-35-11 at 436-965 Susan Drive, Doyle, California 96109 from Fort Sage Unified School District. Long Valley Charter School is the sole occupant of the facility and grounds unless a mutually agreeable arrangement is made with Fort Sage Unified School District. All property currently on the premises or encumbered by Long Valley School purchasing procedures purchased with District funds remains the property of the District and remains on the Long Valley Charter School site. All property currently on the premises or encumbered by Long Valley School purchasing procedures purchased with site funds remains the property of the School and remains on the Long Valley Charter School site. Long Valley Charter School also currently operates independent study resource centers for teachers to meet with students/families in our independent study program. The existing resource center locations are as follows:

- ~~Doyle: 436-965 Susan Drive, Doyle, California 96109~~
- Susanville: 900 Main Street, Susanville, CA, 96130
- Portola: 280 E. Sierra Ave., Portola, CA 96122
- Cottonwood: 3308 Main Street, Cottonwood, CA 96022

~~Additionally, as part of its growth plan, Long Valley Charter School seeks to open a resource center in Redding at the following address: 1615 Continental Street, Redding, CA 96001 (pending approval of the charter material revision).~~

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LVCS will operate no more than 3 resource centers with a total enrollment cap over its site and resource centers of 500 students. LVCS will present CDE and SBE staff with appropriate certificates of occupancy as verified by the appropriate local authority. If an existing resource center location as listed above does not have such certification, by June 21, 2012, the Charter School will include evidence of another facility secured with a move in date of no later than September 1, 2012. LVCS shall provide the CDE and SBE will full evidence of compliance with all ADA issues identified in the CDE's facilities report of March 21, 2012, on or before June 21, 2012.

All facilities will comply with Education Code Section 47610. The Charter School will provide its Authorizer with all requested information regarding its facilities and understands that all facilities are available for periodic and unannounced inspections.

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Impact on Charter Authorizer

Governing Law: Potential civil liability effects, if any, upon the school and upon the District. (Education Code Section 47605(g).

The Charter School shall be operated as a California non-profit public benefit corporation. This corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and California Revenue and Taxation Code Section 23701d.

Pursuant to Education Code Section 47604(c), an entity that grants a charter to a charter school operated by or as a non-profit public benefit corporation shall not be liable for the debts or obligations of the Charter School or for claims arising from the performance of acts, errors or omissions by the Charter School if the authority has complied with all oversight responsibilities required by law. The Charter School shall work diligently to assist the ~~District~~ SBE/CDE in meeting any and all oversight obligations under the law, including monthly meetings, reporting, or other SBE/CDE~~District~~ requested protocol to ensure the SBE/CDE~~District~~ shall not be liable for the operation of the Charter School.

Further, the Charter School and the ~~District~~ SBE have entered into a memorandum of understanding which provides for indemnification of the ~~District~~ SBE by the Charter School. Insurance amounts are described above and will be updated as needed by recommendation of the insurance company for schools of similar size, location, and type of program. The ~~District~~ SBE shall be named an additional insured on the general liability insurance of the Charter School.

The corporate bylaws of the Charter School provide for indemnification of its Board of Directors, officers, agents, and employees, and the Charter School will purchase general liability insurance, Directors and Officers insurance, and fidelity bonding to secure against financial risks.

XVIII. Miscellaneous Provisions

Term. The term of this charter shall begin July 1, 2010 and expire five years thereafter, or on June 30, 2015, with option for renewal.

Renewal of Charter. The grantor may renew this Charter for the term of five years. The Charter School shall re-petition the ~~District~~ SBE for charter renewal prior to expiration.

Material Revisions. Any material revisions to this charter shall be made by the mutual agreement of the Governing Boards of the Charter School and the ~~District~~SBE. Material revisions shall be made pursuant to the standards, criteria, and timelines in Education Code Sections 47605 and 47607.

Severability. The terms of this charter contract are severable. If any term or provision of this charter is deemed invalid or unenforceable, the remainder of this charter shall remain in effect, unless mutually agreed otherwise by the ~~Fort Sage Unified School District~~SBE and the Governing Board of the Charter School. The SBE/CDE~~district~~ and the school agree to meet to discuss and resolve any issues or differences relating to invalidated provisions in a timely, good faith fashion.

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Communications. All official communications between Long Valley Charter School and ~~Fort Sage Unified School District~~ the State Board of Education or California Department of Education will be sent via First Class Mail or other appropriate means to the following addresses:

Long Valley Charter School
P.O. Box 7
Doyle, CA 96109

~~Fort Sage Unified School District~~California Department of Education
~~P.O. Box 35~~Charter Schools Division
~~Herlong, CA 96113~~Sacramento, CA 95814

Business Agreement. The Long Valley Charter School and ~~Fort Sage Unified School District~~SBE will engage and develop a mutually agreeable Memorandum of Understanding outlining the following provisions. The ~~Fort Sage Unified School District~~SBE will receive ~~3~~1% of all ~~general-purpose entitlement and categorical block grant funds for all~~ Long Valley Charter School ~~site-based students residing within the District's boundaries~~ revenue. ~~The District will receive 1% of all general-purpose entitlement and categorical block grant funds for all Long Valley Charter School Independent Study students and site-based students who reside outside of the district's boundaries.~~ The Charter School will receive ~~the remaining~~ general-purpose entitlement and charter block grant funds, 100% of applicable Lottery, Instructional Materials Funds, and other operational funding, as well as an equitable percentage of all applicable categorical funds outside the Charter School Block Grant, in addition to the State and Federal grants, special education and one time funding. ~~Funds coming to the District and not to a specific group (i.e., transportation, etc.) will be apportioned to Long Valley Charter School as they are to other schools in the District.~~

Exhibit B

Certificate of Occupancy

City of Portola

This structure meets the requirements of the City of Portola Building Code as established by Chapter 15 of the Municipal Code and the laws of the State of California. It is certified to meet all the requirements in effect at the time of issuance. Changes to the use or character of the occupancy shall not be made without permission of the Building Official.

Occupancy is hereby granted

Building Address: 280 East Sierra
Location: Portola

Assessor's Parcel: 125-282-034

Building Permit #: Replacement (C of O)
Occupant:
UBC Occupancy Classification: B Occupancy less than 50

Use: Business Offices

Owner of Building: John Scism
Address of Owner: 2608 North Ocean Blvd. Pompano, FL 33062
Building Official: _____ Date: June 8, 2012, 20012

Post This Certificate in a conspicuous location

06/21/2012 12:03 5302577302 LONG VALLEY CHARTER PAGE 01/01

Certificate of Occupancy
City of Susanville
Department of Building Inspection

This certificate is issued pursuant to the requirements of Section 110 of the 2010 California Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City regulating building construction, use, occupancy and occupancy division, for the following commercial structure.

Use: Commercial **Occupancy:** E **Group:** N/A

Design Occupant Load: 49 **AFES Required?** No **AFES:** No

Fire Zone: City **Use Zone:** UBD **Construction Type:** 5-B

Owner of Building: Carson Heritage Trust **Address:** 4564 Bucknall Rd. San Jose 95130

Building Address: 900 Main St. **Locality:** Susanville, CA 96130 **Permit Number:** 11-1497

Issued By: Charlie Palmer **Issuance Date:** March 2, 2012

Charlie Palmer, Building Official

POST IN A CONSPICUOUS PLACE

03/19/2012 09:22 5302577302 LONG VALLEY CHARTER PAGE 01/01

Exhibit C

Pride of the West
Portola • California
Incorporated • May 16, 1946

City of Portola

35 Third Avenue • P.O. Box 1225
Portola, California 96122
Fax: (530) 832-5418
(530) 832-4216
www.ci.portola.ca.us

Julie Baltazar
Charter Schools Division
California Department of Education
1430 N Street
Sacramento CA 95814-5901

Re: Long Valley Charter School
Certificate of Occupancy
280 East Sierra Avenue in Portola, CA

Ms. Baltazar,

Long Valley Charter School ("Long Valley") has informed me that the California Department of Education has objected to the fact that Long Valley does not have a Certificate of Occupancy for its resource center located at 280 East Sierra Avenue in the city of Portola, California.

As Building Department Official for the City of Portola, and thus as representative of the local building enforcement agency with jurisdiction over the area in which the resource center was proposed to be located, I determined in 2010 that the building in which Long Valley planned to locate their resource center was built in 1895; while a Certificate of Occupancy was likely issued at some point thereafter, I was not able to locate the COO in the file for the building. Its previous uses, however, had been as a business (B-Occupancy), including as a scrapbooking store that also offered educational classes.

I also determined in my capacity as representative of the local building enforcement agency with jurisdiction over the area in which the resource center was proposed to be located that the use of the building at 280 East Sierra Avenue in Portola, CA by Long Valley would not be a change in use from its prior B-occupancy use, as the space would be used by fewer than 50 individuals, and would not be used as a traditional school facility. As a result, I determined that Long Valley would not be required to seek a Certificate of Occupancy prior to occupying the building located at 280 East Sierra Avenue.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Todd Roberts

Exhibit D

MEMORANDUM

Planning Division
City of Susanville

DATE: June 20, 2012
FROM: Jared G. Hancock, Senior Planner
FOR: Long Valley Charter School
RE: Use Permit Application No. 12-012

Staff received an application on June 8, 2012, for a Use Permit to allow a Charter School in the Uptown Business District (UBD) zone. During the Use Permit process staff is required to meet legal noticing deadlines, noticing to adjacent property owners and the application will be reviewed by the Planning Commission. The estimated time frame for a Use Permit application to process is approximately six to twelve weeks.

Please contact the City of Susanville, Planning Division at 530-252-5117, if you have any questions related to this item.

Jared G. Hancock
Senior Planner

6/20/12
Date

cc: Building Department file

2012 Planning Commission Meeting Schedule and Publication Deadlines

Circulate to Depts & Agencies	Legal Notice to LCT - NOON	Publication Date	Prop. Owner Notices Sent out	Agenda Packets Sent	PC Meeting
Dec 19th	Dec 22nd	Dec 27th	Dec 30th	Jan 6th	Jan 10th
Dec 26th	Jan 5th	Jan 10th	Jan 13th	Jan 20th	Jan 24th
Jan 6th	Jan 26th	Jan 31st	Feb 3rd	Feb 10th	Feb 14th
Jan 30th	Feb 9th	Feb 14th	Feb 17th	Feb 24th	Feb 28th
Feb 13th	Feb 23rd	Feb 28th	Mar 2nd	Mar 9th	Mar 13th
Feb 27th	Mar 8th	Mar 13th	Mar 16th	Mar 23rd	Mar 27th
Mar 12th	Mar 22nd	Mar 27th	Mar 30th	Apr 6th	Apr 10th
Mar 26th	Apr 5th	Apr 10th	Apr 13th	Apr 20th	Apr 24th
Apr 9th	Apr 19th	Apr 24th	Apr 27th	May 4th	May 8th
Apr 23rd	May 3rd	May 8th	May 11th	May 18th	May 22nd
May 14th	May 24th	May 29th	June 1st	June 8th	June 12th
May 25th	June 7th	June 12th	June 15th	June 22nd	June 26th
Jun 11th	June 21st	June 26th	June 29th	July 6th	July 10th
Jun 25th	July 5th	July 10th	July 13th	July 20th	July 24th
Jul 16th	July 26th	July 31st	Aug 3rd	Aug 8th	Aug 14th
Jul 30th	Aug 9th	Aug 14th	Aug 17th	Aug 24th	Aug 28th
Aug 13th	Aug 23rd	Aug 28th	Aug 31st	Sept 7th	Sept 11th
Aug 27th	Sept 6th	Sept 11th	Sept 14th	Sept 21st	Sept 25th
Sept 10th	Sept 20th	Sept 25th	Sept 28th	Oct 5th	Oct 9th
Sept 24th	Oct 4th	Oct 9th	Oct 12th	Oct 19th	Oct 23rd
Oct 15th	Oct 25th	Oct 30th	Nov 2nd	Nov 9th	Nov 13th
Oct 29th	Nov 8th	Nov 13th	Nov 16th	Nov 21st	Nov 27th
Nov 12th	Nov 21st	Nov 27th	Nov 30th	Dec 7th	Dec 11th
					Dec 25th

City of Susanville, Planning Division
66 North Lassen Street, Susanville, CA 96130
Phone: (530) 252-5117 ◆ Fax (530) 257-4725
www.cityofsusanville.org

USE PERMIT SUBMITTAL REQUIREMENTS
Includes the requirements for Architectural and Site Plan Review, which is normally part of the Use Permit process

Items required for submittal:

- ☐ Completed and signed application
- ☐ Completed and signed Environmental Questionnaire
- ☐ Current preliminary title report dated within the last 3 months
- ☐ Copy of any recorded maps that affect the project
- ☐ Copy of any deeds that may affect the property
- ☐ Any information that the project proponent has that may be necessary to make an environmental determination, such as: traffic study, archaeological study, etc
- ☐ Plans to include (when applicable): Existing Site Plan, Proposed Site Plan, Preliminary Grading and Drainage Plan, Landscape and Irrigation Plan, Building Elevations and Floor Plans.
- ☐ One (1) full size copies 18"x26' or larger of all plan sheet sets stapled and one (1) reduced reproducible copy of all sheets 11"x17" in size.
- ☐ Fees: see fee schedule

PLAN CONTENTS:

ALL SHEETS: (***Note:*** *If drawings are to be used in final improvement plan submittal, plan size can be 24"x36"*)

- ☐ Plans and other drawings submitted shall have a sheet size: 18" x 26" or larger.
- ☐ Scale: 1" = 50', 1" =40', 1" = 30', 1" = 20' or 1" =10' (unless otherwise approved by Planning Division).
- ☐ Sheet numbering shall be the following format: Sheet _____ of Sheets _____
- ☐ North Arrow on each sheet.
- ☐ Title Block on each sheet must include:
  - Project Name
  - Project address or location
  - Name, address of preparer
  - Phone/fax number of preparer
  - Date

SHEET ONE shall include the following information (sheet one does not need to be a separate sheet or a cover sheet):

- ☐ Owner and developer name, address and phone number
- ☐ Area and/or location map - this map must have sufficient detail for an out of the area agency to easily locate the project site.
- ☐ Assessor's Parcel Number(s)
- ☐ Zoning
- ☐ A list of utilities that will serve the project (name of utility and type of service)
- ☐ Areas (in square feet and percentages) of proposed building coverage, landscaping coverage, required recreational area coverage (if applicable) paved areas and overall area of the project.
- ☐ Project phasing, if any
- ☐ Number of parking spaces provided and required

Site Plans must contain the following:

- ☐ All project boundary lines must be clearly dimensioned and be shown with a heavy dark line
- ☐ Building setback lines shall be shown with a thin dashed line and label and dimension
- ☐ All buildings (existing and proposed) shall be dimensioned and the location of the building shall be tied to the property lines with proper dimensions; building envelopes (when different from footprint) shall also be dimensioned
- ☐ Height of buildings and structures
- ☐ Topography shall be shown with a minimum 2 foot contour interval unless otherwise approved by the Planning Division
- ☐ All drainage courses and waterways
- ☐ Existing and proposed utilities (and appurtenances) such as sewer, water, natural gas, storm drains, fire hydrant locations, etc.
- ☐ Off-site utilities, structures and topography 100 to 200 feet surrounding the site
- ☐ Sizes of existing sewer, water and storm drain lines
- ☐ Existing and proposed easements pertinent to the project
- ☐ Existing street improvements adjoining the project (show the existing streets to full width and show existing driveways and land uses on both sides of the street)
- ☐ All existing trees with a trunk diameter of 4 inches or larger shall be located and shown and the species noted
- ☐ Proposed street improvements such as curb, gutter and sidewalk
- ☐ Typical proposed street cross section and other applicable details
- ☐ Street names: Contact the Planning Division prior to naming any street
- ☐ Number of parking spaces provided and required
- ☐ Parking layout and dimensions
- ☐ Location of any proposed amenities
- ☐ Exterior lighting locations – indicate type of lighting and height of poles, if applicable
- ☐ Preliminary grading and drainage plans shall include existing and proposed grade elevations, proposed method for storm water retention during construction, proposed storm drain system and sand and oil separator, if necessary
- ☐ Project building elevation drawings (including floor plans of proposed buildings) shall be

drawn to scale and be of sufficient detail to show how the project will appear from adjoining properties or public streets, including types and colors of building and roofing materials

☐ Landscape and Irrigation Plans shall include the entire site with landscape planter areas shown and dimensioned, irrigation layout to the planter areas, and the number, type, size and placement al all trees and shrubs

NOTES:

1. Once the project is approved by the Planning Commission the project owner/developer will be required to submit final building plans to the City Building Division and final site and improvement plans to the City Planning Division for plan check and final approval *before* a building permit will be issued (if applicable).
2. Prior to submitting a Use Permit and/or Architectural & Site Plan Review application to the City, the developer should submit 3 sets of plans to the Planning Division for preliminary review and comments.
3. The Use Permit process usually requires Architectural and Site Plan Review. There is no additional fee for this process if it runs concurrent with the Use Permit application.
4. On average, Use Permit applications take from 6 to 12 weeks from the time a full submittal is received to the Planning Commission hearing, as long as the project is exempt from CEQA.

s/planning/forms/use permit submittal-updated 5/12

Exhibit E

COMMERCIAL LEASE AGREEMENT

Parties

THIS LEASE, dated **June 18, 2012**, is made by and between **DON & CHRISTIE MACVITIE**, hereinafter called "lessor," and **Long Valley Charter School, Inc.**, hereinafter called Lessee.

Premises

Lessor hereby leases to Lessee and Lessee leases from Lessor for the term, at the rental, and upon all of the conditions set forth herein, the rental property described as **623 & 629 Main Street**, located in the City of **Susanville**, County of **Lassen**, State of **California**.

Term

1. The term is **Thirty Six** months commencing on the first day of **August 1, 2012**, and ending on the last day of **July 31, 2015.**

Rent

2. The rent shall be **$1995.00** per month, payable on the first day of each month. If the rent is not received by the 5th of the month it will be considered delinquent and a late fee of 10% of the monthly rent will be due with the rent payment.

Cleaning & Damages Deposit

3. Upon execution hereof, Lessee shall deliver to and deposit with Lessor the sum **$1995.00**, which deposit shall be security for faithful performance of this lease. The deposit shall be retained by Lessor and may be applied against any charges, debts or damages due Lessor from Lessee. The total shall at all times be equal to the current fixed monthly rent. Lessor shall not be required to pay any interest on the security deposit.

Removal of Property

4. Should Lessee fail to pay any part of the rents herein specified, at the times or in the manner herein provided, or fail faithfully to comply with or perform any other of the terms, conditions, covenants and agreements of this lease on the part of Lessee to be performed or complied with, or should Lessee abandon the leased premises, then and in that event, Lessor, at the sole option of Lessor may terminate this lease, and Lessor and Lessee shall have all the rights and remedies as provided in California Civil Code, Section 1951.2. Lessor may pursue any remedy whatsoever provided for by law, and in any event Lessor shall be entitled to the possession of the leased premises at the lawful termination of this lease. Lessor is hereby authorized to remove and store at Lessee's expense any personal property which Lessee abandons at the leased premises upon vacating those premises. The Lessor has the remedy described in California Civil Code Section 1951.4. (Lessor may continue lease in effect after Lessee's breach and abandonment and recover rent as it becomes due, if Lessee has right to sublet or assign, subject only to reasonable limitations.) The rights of Lessor under this lease shall be cumulative to all other rights or remedies given to Lessor by law or by the terms of this lease.

Hazardous Material

5. Lessee shall not use, store or dispose of any hazardous substances upon the premises, except use and storage of such substances if they are customarily used in Lessee's business, and such use and storage complies with all environmental laws. Hazardous substances means hazardous waste, substance, or , or toxic materials regulated under any environmental laws or regulations applicable to the property. See paragraph 32.

Assignment and Subletting

6. Lessee may assign his interest or sublet the property, but only with the prior written consent of Lessor. Under no other circumstances, and without prior obtained written consent, neither this lease nor any interest therein shall be assignable or subject to subletting. Lessor shall not unreasonably withhold requested written consent.
   Lessee further promises and covenants that if he neglects or fails to perform or observe any of the covenants contained in this lease and continues this neglect or failure for ten (10) days after notice by Lessor, or if the estate hereby created shall be taken on execution, and such execution shall not be satisfied, canceled or otherwise removed within thirty (30) days after notice by Lessor, or if the Lessee shall be adjudicated bankrupt or insolvent according to law, or if any assignment of its property shall be made for the benefit of creditors, the Lessor may immediately terminate this lease. Lessee covenants that in case of such termination it will indemnify Lessor against all loss of rent which Lessor may incur by reason of such termination, during the residue of the term above specified.

COMMERCIAL LEASE AGREEMENT

Alterations and Repairs
Damage to Premises

7. Lessee agrees that the leased premises are now in tenantable and good order and condition and that Lessee shall keep and maintain these premises in good and sanitary order and condition, and that no damages, alterations, or change whatever shall be made in or about the leased premises without the written consent of Lessor. Unless otherwise provided by written agreement, all alterations, improvements, changes, or repairs within the building that may be required shall be done by or under the direction of Lessor but at the cost of Lessee. All alterations, additions, and improvements made in and to the leased premises shall, unless otherwise provided by written agreement, be the property of Lessor and shall remain upon, and be surrendered with the leased premises. Lessee shall not mar or deface in any manner the walls, woodwork, or any other part of the leased premises. All damage or injury done to the premises or property of the Lessor by the Lessee, or by any person who may be in or upon the premises, with the consent of the Lessee, shall be paid for by the Lessee at the time the damage or injury is inflicted. Lessee shall at the termination of the lease, surrender the leased premises to Lessor in as good order and condition as received, normal wear and tear excepted.

Delivery of Possession

8. In the event of the inability of Lessor to deliver possession of the leased premises at the time herein fixed for the commencement of the term of this lease, neither Lessor nor the agent of Lessor shall be liable for any damage caused thereby, nor shall this lease thereby become void or voidable, but in such event Lessee shall not be liable for any rent until such time as Lessor can deliver possession.

Notice of Surrender

9. Lessee shall, at least thirty (30) days before the date of expiration of this lease, give Lessor a written notice of intention to surrender the leased premises on that date. If such notice is not given, the Lessee shall be liable for rent of one additional month in the event that he shall have vacated the leased premises, at the expiration of the term of this lease.

Holding Over

10. If Lessee holds possession of premises after the expiration of the term of this lease, Lessee shall become a tenant from month-to-month only upon the terms herein specified, but at a monthly rental of **Nineteen Hundred Ninety Five** dollars **($1995.00)** per month payable monthly in advance in lawful money of the United States on the first day of each month and shall continue to be such tenant until such tenancy shall be terminated by Lessor, or Lessee by written notice of at least one month prior to the date of the termination of such monthly tenancy of the intention to terminate such tenancy.

Entry and Inspection

11. Management is given the right to enter or inspect the premises for the following purposes:
    a. In case of emergency.
    b. To make necessary or agreed repairs, decorations, alterations or improvements; supply necessary or agreed services; or exhibit the unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.
    c. When the tenant has abandoned or surrendered the premises.
    d. Pursuant to court order.
    e. To service or repair elevator mechanical or electrical controls. (623 Main Street only)

    Except in case of emergency, when the tenant has abandoned or surrendered the premises, or if it is impractical to do so, the Owner shall give the tenant reasonable notice of his intent to enter and enter only during normal business hours. Twenty-four (24) hours shall be presumed to be reasonable notice.

Service Charges

12. Lessee agrees to pay during the term hereof, all charges made against the premises for all utility charges except **water**, and for any other commodities furnished or supplied or used in or upon or about the premises.

Insurance

13. Lessee shall, at Lessee's expense, obtain and keep in force during the term of this lease a policy of **Comprehensive Liability Insurance** in an amount not less than $1,000,000.00 per occurrence of bodily injury and property damage and shall insure Lessee with Lessor as an additional insured against liability arising out of the use of the premises.
14. Lessee shall, at Lessee's expense, obtain and keep in force during the term of this lease replacement cost **Window Glass, Fire, Including Special Form and Extended Coverage Insurance with Vandalism and Malicious Mischief Endorsements** in an amount sufficient to cover not less than 100% of the full replacement cost of all window glass and Lessee's personal property, fixtures, equipment, and tenant improvements.
15. Lessor shall obtain and keep in force during the term of this lease a policy or policies of insurance covering, with the exception of window glass, loss or damage to the premises, but not Lessee's personal property, fixtures, equipment or tenant improvements, in the amount of the replacement cost thereof.

COMMERCIAL LEASE AGREEMENT

Signs

16. Lessor reserves the exclusive right to the roof, side and rear walls of the premises. Lessee shall not construct any projecting sign or awning without the prior written consent of Lessor which consent shall not be unreasonably withheld.

Estoppel Certificate

17. An estoppel certificate may be issued under the following circumstances:
    a. Lessee shall at any time upon not less than ten (10) days' prior written notice from Lessor execute, acknowledge and deliver to Lessor a statement in writing [1] certifying that this lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this lease, as so modified, is in full force and effect), the amount of any security deposit, and the date to which the rent and other charges are paid in advance, if any and [2] acknowledging that there are not, to Lessee's knowledge, any incurred defaults on the part of Lessor hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrancer to the premises.
    b. At Lessor's option, Lessee's failure to deliver such statement within such time shall be a material breach of this Lease or shall be conclusive upon Lessee [1] that this lease is in full force and effect, without modification except as may be represented by Lessor, [2] that there are no uncured defaults in lessor's performance, and [3] that not more than one month's rent has been paid in advance or such failure may be considered by Lessor as a default by Lessee under this lease.
    c. If Lessor desires to finance, refinance or sell the premises, or any part thereof, Lessee hereby agrees to deliver to any lender or purchaser designated by Lessor such financial statements of Lessee as may be reasonably required by such lender or purchaser. Such statements shall include the past three years' financial statements of Lessee. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

Addendum

18. An addendum, signed by the parties, hereto, is attached.

Subordination

19. Lessee's interest in this property shall be subject and subordinate at all times to the lien of any mortgage or trust deed or deeds which may now exist upon or which may be placed upon the premises or the property of which the premises are a part, and Lessee covenants that it will execute and deliver to Lessor or the nominee of Lessor proper subordination agreements to this effect at any time upon the request of Lessor and without payment being made therefore.

Breach of Contract

20. Each and every covenant and term hereof to be kept and performed by Lessee is expressly made a condition, upon breach whereof Lessor may terminate this lease and exercise all rights of entry and reentry upon the leased premises, as provided for by law.

Non-Waiver of Breach

21. The failure or omission of Lessor to terminate this lease, for any violation of any of its terms, conditions, or covenants shall in no way be deemed to be a consent by Lessor to such violation, and shall in no way bar, estop or prevent Lessor from terminating this lease thereafter, either for such or for any subsequent violation of any such term, condition or covenant. The acceptance of rent hereunder shall not be, or be construed to be, a waiver or any breach of any term, covenant, or condition of this lease.

Costs of Suit

22. If any legal action or proceeding be brought by either party to enforce any part of this Agreement, the prevailing party shall recover, in addition to all other relief, reasonable attorney's fees and costs.

Service of Notice

23. Notices required under this Agreement may be served upon Don & Christie MacVitie at 617 Main Street, Manager's Office, Susanville, California. Notice may be served on Lessee at the address set forth on page 1.

Security

24. It is further covenanted and agreed by Lessee that nothing herein contained and no security or guarantee which may now or hereafter be furnished Lessor for the payment of the rent herein reserved or for the performance by Lessee of the other terms or covenants of this lease, shall in any way be a bar or defense to any action in unlawful detainer, or for the recovery of these premises, or in any action which Lessor may at any time commence for breach of any part of the terms or covenants of this lease.

COMMERCIAL LEASE AGREEMENT

Lessor and Lessee Defined
Heirs, etc., included

25. The word "Lessor" and the word "Lessee" as used herein include the plural as well as the singular. The neuter gender, when used here, shall include the masculine and feminine.
26. This lease shall include and inure to and bind the heirs, executors, administrators, successors and assigns of respective parties hereto; but nothing in this paragraph contained shall be construed to modify or impair in any manner any of the provisions and restrictions of this lease relating to the assignment of this lease or of any interest therein, or to the subletting or underletting of the leased premises of any part thereof.
27. Lessee agrees that this instrument contains all of the provisions of the agreement between the parties hereto, and that no promise or agreement not contained herein shall be binding on Lessor.
28. Time is the essence of this agreement.
29. Lessee accepts the leased premises subject to all zoning laws, ordinances, and regulations applicable to and regulating the use of the premises, and acknowledges that Lessor has made no representations or warranties as to the suitability of the premises for any particular use.
30. As used herein, the term "hazardous material" means any hazardous or toxic substance, material or waste, including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR 302) and amendments thereto, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

ENTIRE AGREEMENT: The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties. The following exhibits, if any, have been made a part of this lease before the parties' execution hereof: .

THE UNDERSIGNED hereby acknowledges receipt of a copy hereof.

6-20-12
(Date)

(Lessor)

(Lessor)

P.O. Box 746
Susanville, CA 96130
530 310-2975

6/19/2012
(Date)

(Lessee)

(Lessee)

PO Box 7, Doyle CA 96109
(Address)

827-2395
(Phone)

COMMERCIAL LEASE AGREEMENT

ADDENDUM

A) It is further agreed that in the event that the City of Susanville Planning Commission denies the Application for Use Permit to operate a Charter School, this lease agreement in its entirety may be vacated by Lessee.

B) Lessor agrees to make the following improvements:

1) Construct an ADA compliant restroom in both 623 and 629 Main Street.
2) Construct ADA compliant rear doors and ramps for both 623 and 629 Main Street.
3) Replace the carpeting in 623 Main Street.
4) Install carpeting in the rear half to 629 Main Street.
5) Repair the light fixtures and replace the prismatic panels in 623 Main Street.

Don MacVitie — Date: 6-20-12

Long Valley Charter School — Date: 6/19/2012

Print: Cindy Henry, Director

Exhibit F

WESTWOOD
596-3064
SANITATION

Exhibit G

COTTONWOOD UNION SCHOOL DISTRICT

June 21, 2012

To Whom it May Concern:

This is to inform you that the Cottonwood Union School District has a tentative agreement with Long Valley Charter School, P.O. Box 7, Doyle, CA 96109, to allow them a Use of Facilities for three handicapped accessible classrooms and bathrooms at East Cottonwood Elementary School, 3425 Brush Street, Cottonwood, CA 96022 for the 2012-2013 school year. It is anticipated that the agreement will be approved at the next regularly scheduled board of trustees meeting for the Cottonwood Union School District on July 17, 2012.

If you have any questions, please don't hesitate to contact me at the Cottonwood Union School District.

Sincerely,

Robert Lowden
Superintendent

COTTONWOOD UNION SCHOOL DISTRICT OFFICE • 20512 WEST FIRST STREET • COTTONWOOD, CA 96022 • TELEPHONE (530) 347-3165

Exhibit H

Long Valley Charter School Teacher Credentials 2011-12

June 11, 2012: the plan, as outlined below, was developed in conjunction with Long Valley Charter School and the Title II Leadership Office. This plan has been approved by the Title II Leadership Office, Ron Taylor Administrator (916-323-4819).

Doyle (classroom based program) REAP School (three years, from placement to meet NCLB requirements)						
Teacher	Code	NCLB Status	Credential	Assignment		NCLB compliance
Julie Berry	A	Not New	Mult. Subject	Kindergarten		HOUSSE
Elise Williams	B	New	Mult. Subject Subject Matter Authorization: Civics/Government	Grade 1		Exam CTC approved units
Karen Rust	C	Not New	Mult. Subject	Grades 2-3		HOUSSE
Misty Brussatoi	D	New	Mult. Subject	Grades 4-5		Exam
Debbie Cole	E	New	Mult. Subject	Grades 6-7		Exam
Kelly Hilberg	F	New	Mult. Subject	Grade 8* (algebra)		Exam Algebra
*Kelly Hilberg has agreed to take the CSET: foundational level math exam (July 2012 and again in August 2012 if necessary). RED: indicates area of non-NCLB compliance						
Lassen Independent Study (LIS)						
Teacher	Code	NCLB Status	Credential	Assignment		NCLB compliance
Kimber Azevedo	G	New	Mult. Subject	*K-8 (excluding algebra)		Exam
Teri Bertotti	H	Not New	Mult. Subject	K-8 (excluding algebra)		HOUSSE
Cassie Dunn	I	New	Mult. Subject	*Math		Exam
Emily Foy	J	New	Mult. Subject	K-8 (excluding algebra)		Exam

Long Valley Charter School Teacher Credentials 2011-12

June 11, 2012: the plan, as outlined below, was developed in conjunction with Long Valley Charter School and the Title II Leadership Office. This plan has been approved by the Title II Leadership Office, Ron Taylor Administrator (916-323-4819).

				**Math		VPSS math (Tier I – July 2012; Tier II – November 2012)
Susan Tantardino	K	Not New	Mult. Subject	K-8 (excluding algebra) Social Science		HOUSSE VPSS social science (Tier I July 2012; Tier II November 2012)
Ann Weaver	L	Not New	Single Subject: Home Economics			CTC ASMP
			Education Code 44865	Math Physical Science Biology Art		HOUSSE (foundational level math) HOUSSE (Geoscience) HOUSSE (Biology) HOUSSE (Art)
Jennifer West	M	Not New	Mult. Subject			Exam
			Single: English	English		CTC ASMP

*Kimber Azevedo will take the CSET: multiple subject exam (subtest I June 2012, subtest II July 2012, subtest 3 August 2012)
*Cassie Dunn will take the CSET: foundational level mathematics exam (July 2012) Ms. Dunn has already taken a secondary pedagogy class to enable her to apply for the single subject foundational level math credential once she completes the CSET.

** Emily Foy will not teach math until she has completed Tier I and Tier II VPSS program

Ann Weaver will teach math should Cassie Dunn fail to pass the CSET: foundational level mathematics exam prior to the start of the 2012/13 school year

RED: indicates area of non-NCLB compliance

Shasta Independent Study (SHI)

Long Valley Charter School Teacher Credentials 2011-12

June 11, 2012: the plan, as outlined below, was developed in conjunction with Long Valley Charter School and the Title II Leadership Office. This plan has been approved by the Title II Leadership Office, Ron Taylor Administrator (916-323-4819).

Teacher	Code	NCLB Status	Credential	Assignment		NCLB compliance
Jillian Hinchliffe	O	New	Mult. Subject	K-8* (excluding algebra)		Exam
Bryan Knight	P	New	Mult. Subject	*Math		CSET: foundational level mathematics (subtest I, June 2012; subtest II July 2012)
Julia Knight	Q	Not New	Mult. Subject			Exam
			Specialist Education (mild moderate)			
			Education Code 44865	English Art		HOUSSE (English) HOUSSE (Art)
Vanessa Latham	R	New	Mult. Subject			Exam
			Single subject: social science (pending)	Social Science		Exam
Ann Mobley	S	Not New	Clear Standard Elementary: child development academic (nine and below only)			HOUSSE
			Education Code 44865	Biology Geosciences		HOUSSE (Biology) HOUSSE (Geoscience)

*Bryan Knight will take the CSET: foundational level mathematics exam (July 2012) Mr. Knight has already taken a secondary pedagogy class to enable him to apply for the single subject foundational level math credential once he completes the CSET.

RED: Indicates necessary action for NCLB compliance

Plumas Independent Study (PIS)

Teacher	Code	NCLB Status	Credential	Assignment		NCLB compliance
Kathleen Caley	T	Not New	Mult. Subject	K-8 (excluding algebra)		Exam
Eleanor	U	Not New	Mult. Subject	K-8 (excluding		Exam

Long Valley Charter School Teacher Credentials 2011-12

June 11, 2012: the plan, as outlined below, was developed in conjunction with Long Valley Charter School and the Title II Leadership Office. This plan has been approved by the Title II Leadership Office, Ron Taylor Administrator (916-323-4819).

Klemesrud				algebra)		
Erin Klemesrud	V	Not New	Mult. Subject			Exam
			Level II Education Specialist (mild moderate)			
			Supplemental Authorization: English	English		HOUSSE (English)
Cheryl Cheney	W	Not New	Life Standard Secondary social science: history	History Economics Government		Minor (History) HOUSSE (Economics) HOUSSE (Government)
			Life Standard Secondary: English	English		Degree (English)
			Multi. Subject			Exam
Cheree Childers	X	New	Single Subject Biology	Biology		Exam
Mary Ingstad	Y	Not New	Level II Education Specialist (mild moderate)			
			Education Code 44865	Music Art		Degree HOUSSE
Sherri Morgan	Z	Not New	Single Subject: Business			
			Supplemental Authorization: Introductory Math	Mathematics Government Economics Chemistry *Geoscience		HOUSSE HOUSSE HOUSSE HOUSSE HOUSSE

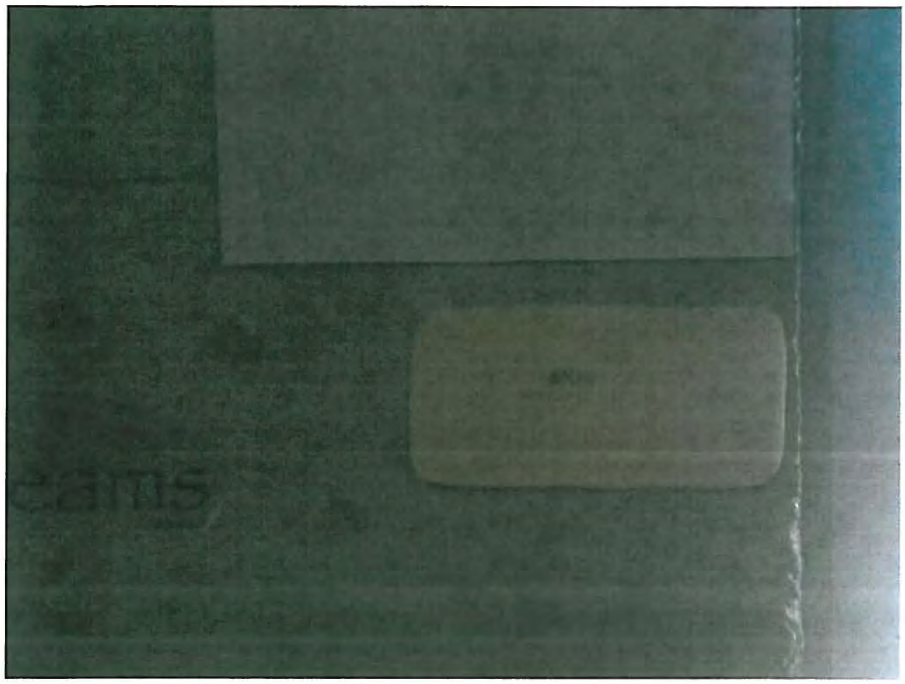
Long Valley Charter School Teacher Credentials 2011-12

June 11, 2012: the plan, as outlined below, was developed in conjunction with Long Valley Charter School and the Title II Leadership Office. This plan has been approved by the Title II Leadership Office, Ron Taylor Administrator (916-323-4819).

			Education Code 44865	English		CTC ASMP
William Powers	A A	Not New	Single Subject: English	English		CTC ASMP
* Sherri Morgan will teach geoscience classes until Cheree Childers passes the CSET: geoscience exam						

Exhibit I

At 60" by Front door



Restroom sign and then detail showing Braille more clearly (Please note this sign was already in place at the time of the first visit)

Another exit.

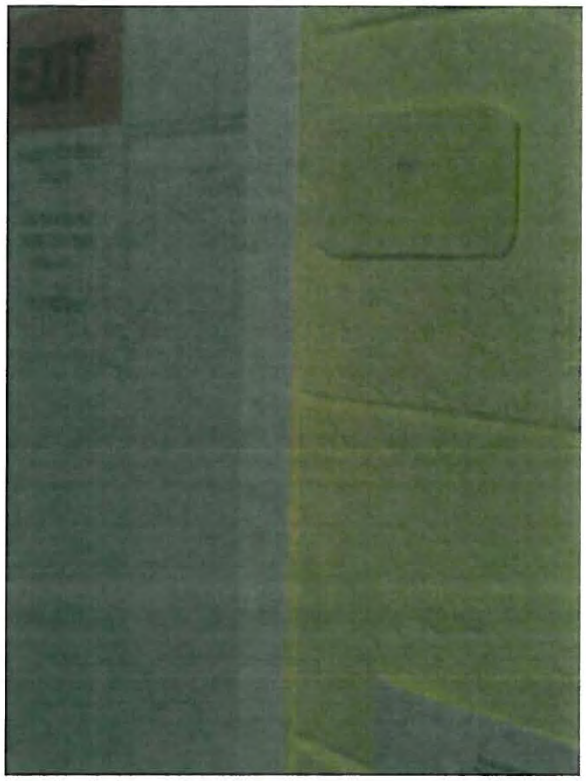
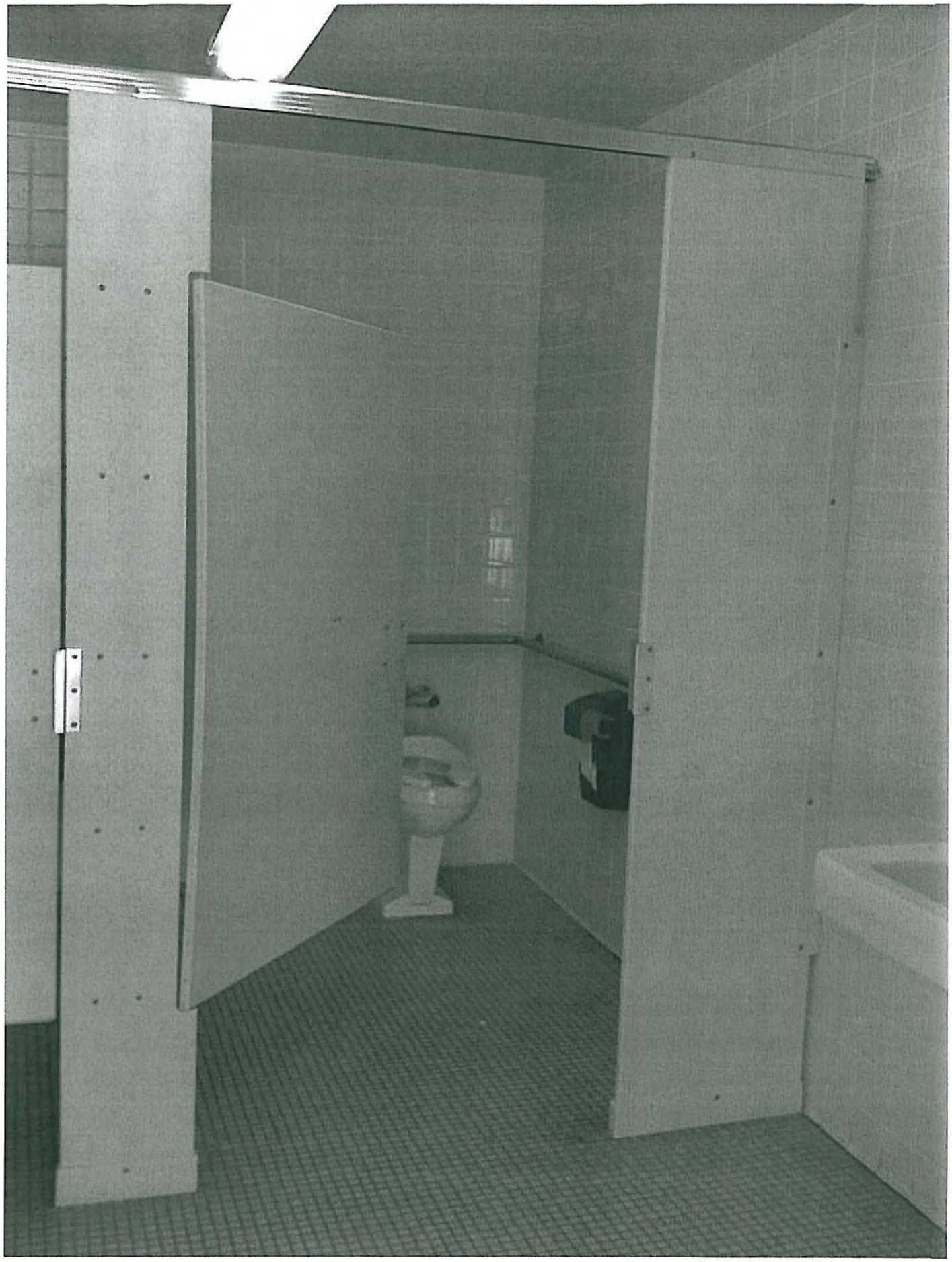
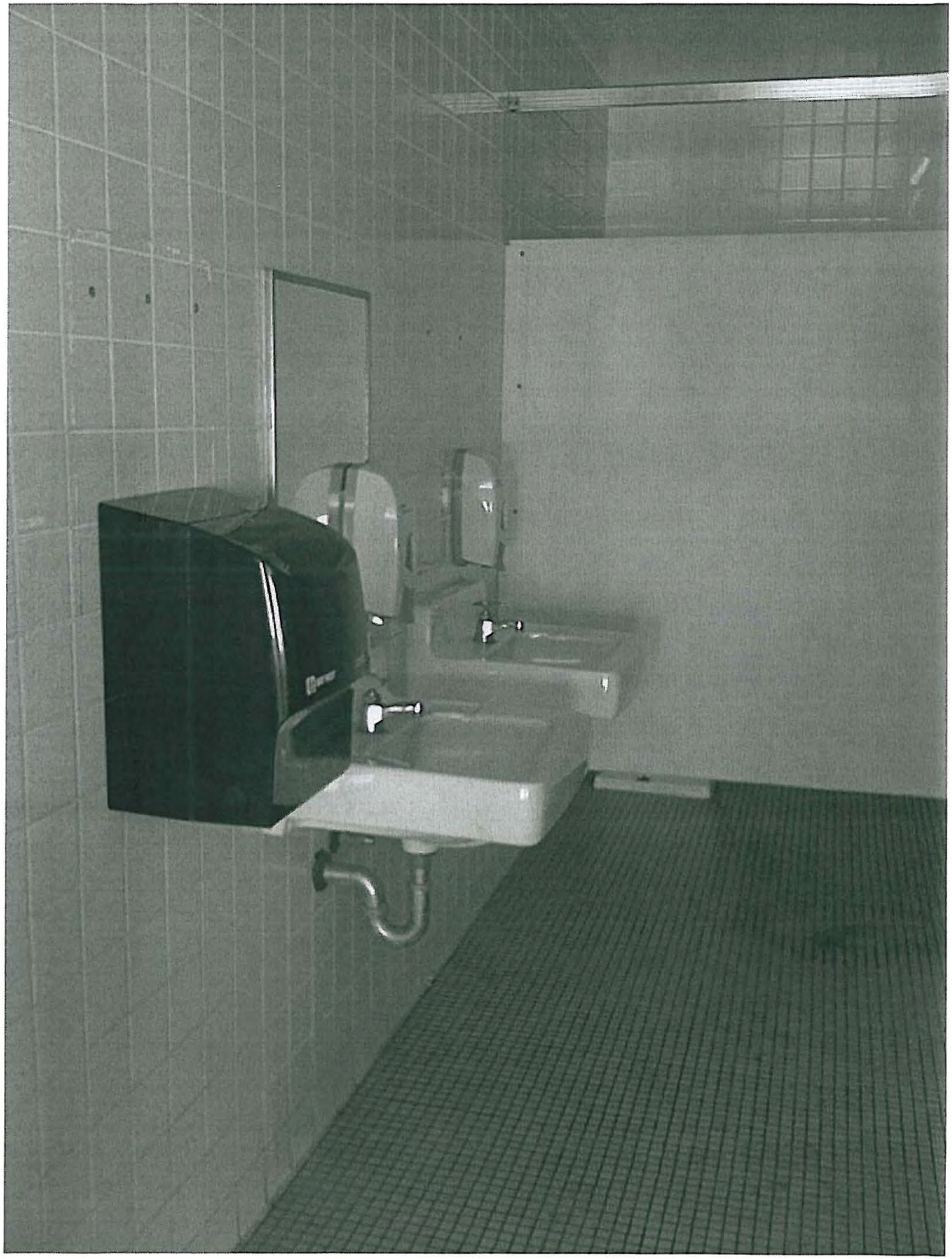


Exhibit J

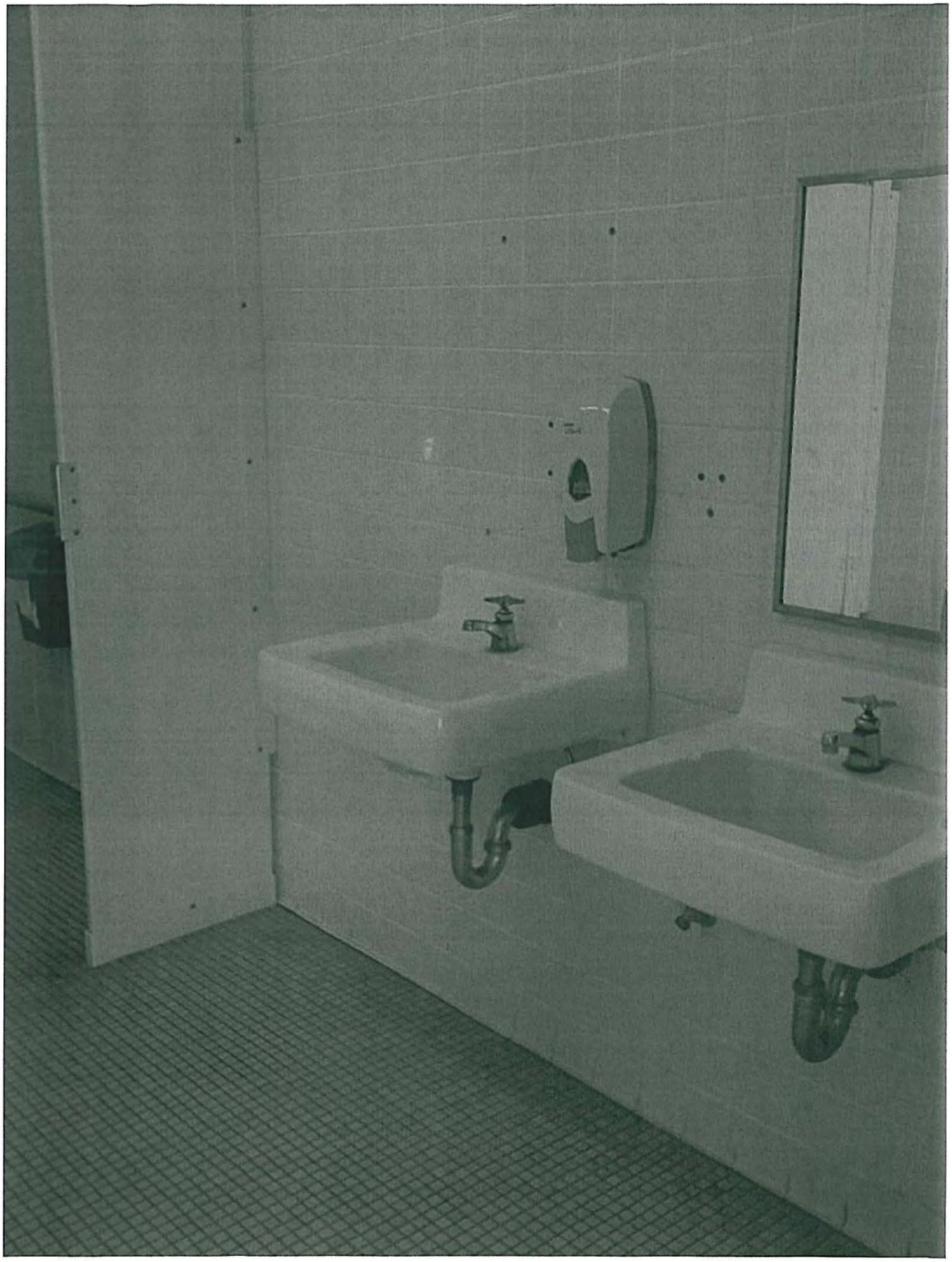


BOYS



BOYS

GIRLS



GIRLS

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 18

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Long Valley Charter School: Consider Issuing a Notice of Violation Pursuant to California *Education Code* Section 47607(d).	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUES

The California Department of Education (CDE) believes that Long Valley Charter School (LVCS) has committed material violations of the conditions, standards, and/or procedures set forth in the charter and has violated provisions of law. As a result, the CDE recommends the issuance of a Notice of Violation pursuant to California *Education Code (EC)* Section 47607(d) to provide LVCS a reasonable opportunity to remedy the identified violations.

RECOMMENDATION

Should the State Board of Education (SBE) determine not to recommend approval of the material revision, then the CDE recommends that the SBE issue a Notice of Violation, see the draft letter provided as Attachment 1. Pursuant *to EC* Section 47607(d), the CDE believes that LVCS has committed material violations of the conditions, standards, and/or procedures set forth in the charter and has violated *EC* Section 47605(l). The CDE has sought to address violations through Notices of Concern. To date, LVCS continues to operate in violation of the charter petition despite the CDE's continued requests to operate within the framework of the charter petition that was approved by the SBE on July 14, 2010.

Pursuant to *EC* Section 47607(d) and *California Code of Regulations*, Title 5 (5 *CCR*) Section 11968.5.2, the CDE also recommends that LVCS have the opportunity to submit evidence that refutes, remedies, or proposes to remedy the alleged violations no later than August 15, 2012, to the CDE and the SBE.

BRIEF HISTORY OF KEY ISSUES

NOTICE OF VIOLATION

According to *EC* Section 47607(c), a charter may be revoked by the authority that granted the charter if the authority finds substantial evidence that the charter school:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter;

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter;

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement; or

(4) Violated any provision of the law.

The CDE believes that evidence exists to support the finding that LVCS committed material violations. *EC* Section 47607(d) provides that prior to revocation, the authority that granted the charter shall notify the charter school of any violation of *EC* Section 47607 and give the charter school a reasonable opportunity to remedy the violation.

Violations of the Conditions of the Charter (*EC* Section 47607[c][1])

Resource Centers: In the petition originally submitted to the SBE for approval in July 14, 2010, LVCS provided a description of an independent study program that made no mention of separate resource centers, and tied the operation of the independent study program to the resources at the kindergarten through eighth grade site in Doyle. The petition listed the address of the Doyle site as its only location. The SBE placed the following condition on LVCS at the time their petition was approved:

- "a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the SBE." The original petition and these conditions are provided as Attachment 3 of Agenda Item 5 on the SBE Agenda for May 2012 Web page located at http://www.cde.ca.gov/be/ag/ag/yr12/agenda201205.asp.

In the 2010–11 and 2011–12 school years, LVCS operated and continues to operate resource centers for their non-classroom-based program without the prior written approval of the Executive Director of the SBE, as required by the SBE Conditions on Opening and Operation. The CDE sent LVCS Notice of Concern on June 20, 2011, and again on October 18, 2011. The SBE issued a letter of violation on March 8, 2012, regarding these unauthorized resource centers. Throughout the 2011–12 school year LVCS has submitted three separate material revision requests to resolve this violation. Two of these requests were withdrawn prior to SBE's consideration. The third request was presented at the May 9, 2012, SBE meeting.

On May 9, 2010, the SBE directed LVCS to present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority by June 21, 2012. Additionally, the SBE directed LVCS to provide evidence of full compliance with all Americans with Disabilities Act (ADA) issues identified in the CDE's report. LVCS provided their response on June 21, 2012, and explained that they are planning to relocate two of the three resource centers due to unresolved ADA issues. As of June 21, 2012, the CDE concludes:

1. A certificate for Business Group "B" occupancy was provided for the Portola site. Pursuant to *EC* 47610, charter schools are required to comply with the California *Building Standards Code*. *California Code of Regulations*, Title 5 Section 14001 sets forth minimum standards for school facilities and housing and requires that educational facilities be designed to meet federal, state and local statutory requirements for structure, fire and public safety (e.g., the California *Building Standards Code*). The 2010 California *Building Standards Code*, Title 24, Part 2, Chapter 1, Section 1.1.2 provides that "[t]he purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations." The legislature has acknowledged the importance of the *Building Standards Code* by expressly excluding the California *Building Standards Code* from those laws of which charter schools are generally exempt. *EC* Section 47610. Section 305 of the *Building Standards Code* states that "Educational Group "E" occupancy includes, among others, the use of a building or structure, or a portion thereof, by more than six persons at any one time for educational purposes through the 12th grade."

2. LVCS was not able to resolve the ADA issues at the originally proposed Susanville and Cottonwood facilities. The landlord of the Susanville site would not make or allow LVCS to make the structural alterations required to bring the restrooms into compliance with the ADA. As an interim measure an ADA accessible Port-o-Potty has been installed at the 900 Main Street site in Susanville. LVCS intends to vacate the Cottonwood site and therefore has not pursued changes to make the site ADA compliant. LVCS has obtained alternative facilities for the Susanville and Cottonwood resource center locations. LVCS provided a copy of a lease agreement for the new Susanville site. The building requires modifications to meet ADA requirements. The construction work was scheduled to begin on June 21, 2012. Until the relocation is complete and pre-opening visits are conducted, the CDE is unable to verify if the facility will be ADA compliant and has the appropriate certificate of occupancy.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE postponed its decision on the LVCS material revision at the May 9, 2012 SBE meeting. The SBE made a motion requesting LVCS to address unresolved issues related to resource centers, enrollment and teacher qualification.

A Notice of Violation was issued by the SBE to LVCS on March 8, 2012. The Notice of Violation issued by the SBE to LVCS on March 8, 2012, has expired since no action was taken at the May 2012 meeting.

The SBE authorized LVCS on appeal of nonrenewal on July 14, 2010. The SBE agenda item, attachments, and minutes can be found on the SBE State Board Meeting--July 2010 Web page at http://www.cde.ca.gov/be/ag/ag/main201007.asp.

Prior to SBE authorization, LVCS had been operating as a conversion charter school in the Fort Sage Unified School District (Fort Sage USD) since 2000. Fort Sage USD granted LVCS a renewal of its petition on November 17, 2004, for a five-year term from 2005 to 2010. The LVCS renewal petition was denied by the Fort Sage USD governing board on January 20, 2010. LVCS submitted an appeal to the Lassen County Board of Education that was denied on March 29, 2010.

FISCAL ANALYSIS (AS APPROPRIATE)

Operation of LVCS, per se, has essentially no fiscal impact on the state as a whole. If affected students were not being served at LVCS, they would most likely be served at another public school. The CDE receives approximately one percent of LVCS's general purpose and categorical program revenues for CDE's oversight activities.

ATTACHMENTS

Attachment 1: Draft Letter Dated July 18, 2012, to Cindy Henry, Director, LVCS - Notice of Violation Pursuant to California *Education Code* Section 47607(d) (4 Pages)

Attachment 2: California Department of Education Charter School Response Analysis (4 Pages)

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Suite 5111
Sacramento, CA 95814
Phone: (916) 319-0827
Fax: (916) 319-0175

DRAFT: July 18, 2012

Cindy Henry, Director
Long Valley Charter School
436-965 Susan Dr.
Doyle, CA 96109

Bill Harkness, President of the Long Valley Charter School Board of Directors
Long Valley Charter School
436-965 Susan Drive
Doyle, CA 96109

Subject: Notice of Violation Pursuant to California *Education Code* (*EC*) Section 47607(d)

Dear Ms. Henry and Members of the Long Valley Charter School Board of Directors:

The State Board of Education (SBE) is aware of a number of issues indicating that Long Valley Charter School (LVCS) may have committed material violations of the conditions, standards, and procedures set forth in the charter and may have violated *Education Code (EC)* Section 47605(l). Specifically, the items of concern are as follows:

Violation of the Conditions of the Charter (*EC* Section 47607[c][1])

Resource Centers: In the petition originally submitted to the SBE for approval in July 14, 2010, LVCS provided a description of an independent study program that made no mention of separate resource centers, and tied the operation of the independent study program to the resources at the K–8 site in Doyle. The petition listed the address of the Doyle site as its only location. A condition of opening placed on LVCS by the SBE at the time of approval was that the petition include "a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the SBE." The original petition and these conditions are provided as Attachment 4.

In the 2010–11 and 2011–12 school years, LVCS operated and continues to operate resource centers for their non-classroom-based program without the prior written approval of the Executive Director of the SBE, as required by the SBE Conditions on Opening and Operation. The CDE sent LVCS a Notice of Concern on June 20, 2011,

and again on October 18, 2011. The SBE issued a letter of violation on March 8, 2012, regarding these unauthorized resource centers. Throughout the 2011–12 school year LVCS proceeded to request material revisions to resolve this violation. LVCS withdrew the material revision request twice. The third material revision request was discussed at the May 9, 2012, SBE meeting.

The CDE conducted site visits to the three proposed resource centers and found them out of compliance with the Americans with Disability Act (ADA) and lacking appropriate certificates of occupancy. On May 9, 2010, the SBE directed LVCS to present the CDE and SBE staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June 21, 2012, deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.

In the response provided by LVCS on June 21, 2012, LVCS stated that they were unable to resolve ADA issues at the original proposed facility locations for the Cottonwood Resource Center, 3308 Main Street, Cottonwood, CA 96022 or at the Susanville Resource Center, 900 Main Street, Susanville, CA 96137. Therefore, LVCS proposed two alternate facilities for these two locations.

LVCS indicated the new proposed facility in Susanville does not currently meet ADA requirements and that construction was scheduled to begin June 21, 2012, to complete the required modifications to bring the building into compliance. The CDE is unable to determine ADA compliance and whether the facility will have an appropriate certificate of occupancy until construction is complete.

For the Cottonwood site, until a lease is signed and a pre-opening site visit is complete for the new proposed facility in Cottonwood, the CDE is unable to determine ADA compliance and whether the site will have an appropriate certificate of occupancy.

LVCS has failed to provide an appropriate certificate of occupancy for the proposed Portola facility. The certificate of occupancy that LVCS provided for the Portola facility is Business Group B. Pursuance to EC 47610, charter schools are required to comply with the California *Building Standards Code*. Section 305 of the California *Building Standards Code* states that “Educational Group E occupancy includes, among others, the use of a building or structure, or a potion thereof, by more than six persons at any one time for educational purposes through 12th grade.”

Enrollment: The SBE approved the LVCS charter petition with enrollment of 272 students. Per the MOU between the SBE and LVCS, changes to the charter deemed to be material amendments may not be made without SBE approval, including changes in enrollment that differ by more than 25 percent of the enrollment approved by the SBE. This condition limits LVCS to a total of 340 students. After ongoing inquiries from CDE about fluctuating enrollment during the 2010–11 school year, in June of 2011, LVCS stated that enrollment had grown to 451 pupils. In the June 20, 2011, Notice of Concern, the CDE directed LVCS to comply with the approved enrollment. Despite receiving notices from CDE and ongoing communication between LVCS and the CDE,

LVCS continues to increase enrollment. At the beginning of the 2011–12 school year, LVCS stated that enrollment had grown to 510 students. In the October 18, 2011, Notice of Concern, the CDE again directed LVCS to comply with the terms of the charter. As of January 4, 2012, LVCS enrollment was reported at 498 students. Other than submitting a request for a material revision, LVCS has failed to address this concern and continues to enroll new students.

On May 9, 2010, the SBE directed LVCS to include in their material revision that LVCS will operate no more than three resources centers and have a cap of a total 500 students with 25 percent variation on that cap. LVCS was also required to submit the collection and reporting mechanisms that demonstrate compliance with CDE's requirements for documenting compliance with this enrollment cap.

Pursuant to *California Code of Regulations*, Title 5, Section 11968.5.2, if the LVCS governing board chooses to respond, it shall take the following actions:

(1) Submit to the SBE a detailed, written response addressing each identified violation which shall include the refutation, remedial action taken, or proposed remedial action by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.

(2) Attach to its written response supporting evidence of the refutation, remedial action, or proposed remedial action, if any, including written reports, statements, and other appropriate documentation.

Failure to provide substantial evidence that refutes, remedies, or proposes to remedy the alleged violations may provide grounds sufficient to form the basis for an action to revoke the LVCS charter pursuant to *EC* Section 47607(c). On **September 12, 2012**, the SBE in a public hearing will consider whether there is substantial evidence to refute or remedy each alleged violation, at which time it may issue a Notice of Intent to Revoke, pursuant to *EC* Section 47607(e). If the SBE issues a Notice of Intent to Revoke, the SBE will hold a public hearing on **September 13, 2012**, at which time the SBE will determine whether sufficient evidence exists to revoke LVCS's charter. This letter serves as a formal Notice of Violation, pursuant to *EC* Section 47607(d) and *California Code of Regulations*, Title 5, Section 11968.5.2, and provides LVCS a reasonable period in which to address these concerns.

A written response and supporting evidence addressing each of the above-outlined issues must be received by Sue Burr, Executive Director, SBE at 1430 N Street, Ste. 5111, Sacramento, CA, 95814 no later than the close of business (5:00 p.m. Pacific Standard Time) **August 10, 2012.**

If you have any questions regarding this subject, please contact Sue Burr, Executive Director, California State Board of Education, by phone at 916-319-0827 or by e-mail at sburr@cde.ca.gov.

Sincerely,

Dr. Michael Kirst, President
California State Board of Education
MK:sw

cc: Susan K. Burr, Executive Director, State Board of Education
Deborah V.H. Sigman, Deputy Superintendent of Public Instruction, California Department of Education
Julie Russell, Director, Charter School Division, California Department of Education
Judy M. Cias, Chief Counsel, State Board of Education
Jamie Errecart, Legal Counsel, Legal Division, California Department of Education
Lisa Corr, Middleton, Legal Counsel, Young & Minney, LLP

California Department of Education Charter School Response Analysis

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
1. Long Valley Charter School (LVCS) will operate no more than 3 resources centers and impose a cap of a total 500 students with 25% variation on that cap. This shall include the collection and reporting mechanisms that demonstrate compliance with the California Department of Education's (CDE) requirements for documenting compliance with this enrollment cap.	The CDE does not currently have a collection and reporting mechanism to demonstrate compliance with the enrollment cap pursuant to the memorandum of understanding. However, CDE is recommending monthly enrollment reports by site, effective immediately.	LVCS commits to providing the CDE monthly enrollment reports by site effective immediately.	Yes	The plan sent to the CDE is acceptable.
2. LVCS will present the CDE and State Board of Education staff with the appropriate certificates of occupancy as verified by the appropriate local authority. However, if an existing site does not have such certification, by the June deadline, the charter must include evidence of a site secured with a move in date of no later than September 1, 2012.	For each LVCS resource center, provide an appropriate certificate of occupancy. Evidence of a site secured will include a dated and signed lease with an appropriate certificate of occupancy.	**LVCS Resource Centers** **Portola** B occupancy use permit was submitted as Exhibit B in their response. **Cottonwood** Due to unresolved ADA issues LVCS intends relocate. LVCS stated they intend to lease three classrooms on a school site owned by Cottonwood Union School District (USD).	No **Pending** Cottonwood USD School Board approval, appropriate certificate of occupancy and approval	**Portola** The CDE finds a B occupancy inappropriate. **Cottonwood** A lease for the alternative facility will be considered by the Cottonwood USD School Board at the July 17, 2012 meeting.

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
		Susanville Due to unresolved ADA issues LVCS intends relocate. The new facility will require construction to get up to code. Construction was scheduled to begin June 21, 2012. The lease is effective August 1, 2012.	from the CDE pre-opening site inspection **Pending** appropriate certificate of occupancy and approval from the CDE pre-opening site inspection	**Susanville** The alternative facility is contingent on local planning commission board approval scheduled for July 10, 2012. A signed lease for the alternative facility was submitted with an effective date of August 1, 2012.
3. The material revision must include a clear, distinct, and unique plan for each resource center to ensure that each teacher at each site will meet the requirements of highly qualified teacher (HQT).	Include the plan developed with the CDE on May 23, 2012 as part of the material revision.	The revised LVCS petition contains reference to Appendix F, as part of the material revision. The plan was developed with CDE staff on May 23, 2012. The plan, which is broken down by each resource center, calls for one staff member to complete Tier I and Tier II VPSS and four staff members to take and pass applicable sections of the CSET. These staff members	Yes	The CDE finds the HQT plan acceptable.

SBE May 2012 Motion	Evidence Suggested by the CDE	LVCS Response	Meets Requirements (Yes/No)	CDE Response
		have three years from placement to meet NCLB standards.		
4. On or before the June deadline, LVCS shall provide evidence of full compliance with all Americans with Disabilities Act (ADA) issues identified in the CDE's report.	The CDE follow-up site inspections reflect changes to the facilities to comply with the ADA issues identified in the CDE report.	**LVCS Resource Centers** **Portola** LVCS indicated Braille signage has been installed and photographs were submitted as Exhibit I in their response binder. **Cottonwood** LVCS plans to relocate from this facility. **Susanville** LVCS plans to relocate from this facility. LVCS indicated that they have a Port-O-Potty that is ADA compliant for use during the summer. Construction is set to begin June 21, 2012, to correct ADA issues at new site.	Yes **Pending** **Pending**	**Portola** LVCS provided evidence of complying with the Braille signage issues identified in the CDE staff report. **Cottonwood** The CDE is unable to determine if the new facility will be ADA compliant. The CDE plans to verify ADA compliance with a pre-opening site visit. **Susanville** The CDE is unable to determine if the new facility will be ADA compliant. The CDE plans to verify ADA compliance with a pre-opening site visit.

Programmatic Findings from the CDE Review and Analysis of the LVCS Material Revision		
Finding	Summary of Concern	Suggested Corrective Action
Sound Educational Practice	• Inadequate plan for low or high achieving students • Inadequate plan for English Learner (EL) students • Need to finalize high school a-g course approval • Complete WASC renewal	• Develop, follow and provide written plan of the criteria to be used to identify low achieving and high achieving students • Develop, follow and provide written criteria that will trigger EL students to be reclassified and monitored after reclassification • Provide written detail on the annual benchmark goals for EL students • Finalize a-g course approval • Remedy any concern raised in the WASC process that would prevent accreditation of LVCS and share WASC report with CDE staff
Description of Educational Program	• Insufficient detail provided regarding educational program, particularly for low achieving, high achieving and EL students	Develop and implement a written plan to identify and address the specific needs of EL students, low achieving students and high achieving students
Measurable Pupil Outcomes	• Educational objectives are not measurable	Develop, monitor and provide a written plan of LVCS educational objectives that are able to be objectively measured
Academically Low Achieving Pupils	• Inadequate plan for providing comprehensive learning experiences for academically low achieving pupils	Develop and follow a written action plan to support the academic achievement of low achieving students at LVCS

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 19

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Doris Topsy-Elvord Academy: Hold a Public Hearing and Consider Revocation Pursuant to California *Education Code* Section 47607(e).	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUES

The California Department of Education (CDE) found that the Doris Topsy-Elvord Academy (DTEA) engaged in fiscal mismanagement pursuant to California *Education Code* (*EC)* Section 47607(c)(3) and violated provisions of law. As a result, on May 22, 2012, the State Board of Education (SBE) issued a Notice of Violation to Doris Topy-Elvord Academy (DTEA) and allowed DTEA an opportunity to provide documentation or evidence to refute or remedy the Notice of Violation, primarily the ongoing negative balance in the charter school's budget.

RECOMMENDATION

If on July 18, 2012, the SBE issues a Notice of Intent to Revoke the charter of the DTEA, the CDE recommends that the SBE hold a public hearing on July 19, 2012, to consider the revocation of the DTEA charter.

If the SBE finds sufficient grounds for revocation, the CDE recommends that the SBE adopt the Final Decision to Revoke and Notice of Facts in Support of the Revocation of the Doris Topsy-Elvord Academy (Attachment 1), effective 4 p.m., Friday, July 27, 2012.

If the SBE adopts Attachment 1, DTEA is directed to comply immediately with the closure procedures set forth in its charter and in Appendix E of the Memorandum of Understanding between the SBE and DTEA, with the exception of keeping the school open until 4 p.m., Friday, July 27, 2012, for the purpose of transitioning all DTEA students to a new school.

BRIEF HISTORY OF KEY ISSUES

EC Section 47607(d) specifies, "prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to remedy the violation." The SBE issued a Notice of Violation to DTEA at its May 9, 2012, meeting.

In an effort to allow more time for DTEA to gather and submit evidence that would refute, remedied, or propose to remedy the alleged violations, the SBE agreed that the evidence would not go to ACCS, but rather be submitted to Sue Burr, Executive Director of the SBE on or before June 29, 2012.

If the SBE issues a Notice of Intent to Revoke, it must provide written findings of fact in support of revocation to DTEA, along with a notice of public hearing.

The CDE recommends that if, at the public hearing, the SBE finds that DTEA cannot present evidence that it can refute, remedy, or propose to remedy the alleged violations, the SBE issue the Final Decision to Revoke and Written Factual Findings to Support the Revocation of the Doris Topsy-Elvord Academy (Attachment 1), effective July 27, 2012, at 4 p.m.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On July 18, 2012, the SBE is scheduled to consider evidence provided by DTEA and the CDE analysis and recommendations. If the SBE deems appropriate, the SBE will issue a Notice of Intent to Revoke the DTEA charter.

At the May 9, 2012, meeting, the SBE acted to issue a Notice of Violation to DTEA.

FISCAL ANALYSIS (AS APPROPRIATE)

There would essentially be no cost to the state related to revocation of the DTEA charter. If the SBE were to revoke the charter, some shifting of state expenditures would occur from DTEA to other local educational agencies (due to the transfer of students), but state expenditures would essentially be unchanged. There would be a minor loss of revenue to the CDE from the oversight fees collected from DTEA. However, the revenue loss would be offset by the reduction in costs for oversight activities.

ATTACHMENTS

Attachment 1: Draft Letter to Marvin Smith Dated July 19, 2012, Final Decision to Revoke and Notice of Facts in Support of Revocation Pursuant to California *Education Code* Section 47607(e) (3 Pages)

Attachment 2: Excerpts from the Memorandum of Understanding Between the California State Board of Education and the Doris Topsy-Elvord Academy Closure Procedures and Appendix E (10 Pages)

DRAFT LETTER
Final Decision to Revoke and Notice of Facts in Support of Revocation Pursuant to California *Education Code* Section 47607(e)

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Suite 5111
Sacramento, CA 95814
Phone: (916) 319-0827
Fax: (916) 319-0175

DRAFT: July 19, 2012

Marvin Smith, Executive Director
Doris Topsy-Elvord Academy
5951 Downey Avenue
Long Beach, CA 90805

Richard Rydstom, Esq.
Board Chariman, Doris Topsy-Elvord Academy
4695 MacArthur Court,11th Floor,
Newport Beach, Ca 92660

Dear Messrs. Smith and Rydstom:

Subject: Final Decision to Revoke and Notice of Facts in Support of Revocation Pursuant to California *Education Code* (*EC*) Section 47607(e)

This letter serves as notification that the State Board of Education (SBE) made a final decision to revoke the Doris Topsy-Elvord Academy (DTEA) effective 4 p.m., Friday, July 27, 2012, pursuant to California *Education Code (EC)* 47607(e). DTEA is hereby directed to immediately comply with the closure procedures set forth in its charter and in Appendix E of the Memorandum of Understanding between DTEA and the SBE, with the exception of keeping the school open until 4 p.m., Friday, July 27, 2012, for the purpose of transitioning all DTEA students to a new school. As set forth in Appendix E, DTEA will immediately notify the family of each student enrolled of DTEA's closure and assist the students and the Los Angeles County Office of Education in that transition.

On July 18, 2012, you were sent a Notice of Intent to Revoke letter. A hearing was held on July 19, 2012, regarding final revocation of the DTEA charter.

EC Section 47607(c) provides that a school's charter may be revoked by the authority that granted the charter if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(4) Violated any provision of the law.

The State Board of Education (SBE) issued a Notice of Violation dated May 22, 2012, informing DTEA that it has violated *EC* Section 47607(c)(3) and that this violation is the basis for an action to revoke the DTEA charter.

The Notice of Violation provided DTEA with an opportunity to submit evidence to the SBE by June 29, 2012, that refuted, remedied, or proposed to remedy the alleged violations.

After consideration of the evidence presented by DTEA, the SBE concluded that DTEA failed to refute, remedy, or propose to remedy the violations included in the Notice of Violation as follows:

Facts relating to *EC* Section 47607(c)(3) that DTEA has failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement that may hinder its ability to open and operate in the 2012–13 school year:

- DTEA did not provide a clearly delineated plan to reduce or eliminate the negative balance in the budget. Consequently, DTEA appears to have ended the 2011-12 fiscal year with a negative balance of $154,773.

- DTEA presented the school budget for 2012-13 with a negative ending balance of $(85,280), which represents a substantial reduction of its budget deficit. However, DTEA has not provided tangible evidence to support how they will reduce this negative balance. DTEA will be operating with a negative budget balance for its 5th year in 2012-13.

- DTEA failed to provide a detailed justification of administrative expenses associated with educational and administrative leadership at DTEA.

- DTEA failed to meet its goal of grants and fundraising revenues in the 2011-12 fiscal year.

- DTEA's does not include a measurable outcome of student recruitment and enrollment plan.

Conclusion: DTEA provided insufficient documentation to remedy the Notice of Violation.

Final Decision to Revoke

Based upon these facts, the SBE hereby issues this Final Decision to Revoke the DTEA charter effective 4 p.m., Friday, July 27, 2012. This revocation is based upon *EC* Section 47607(c)(3) in that DTEA has failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement that may hinder its ability to open and operate in the 2012–13 school year.

DTEA is hereby directed to immediately comply with the closure procedures set forth in its charter and in Appendix E of the Memorandum of Understanding between DTEA and the SBE, with the exception of keeping the school open until 4 p.m., Friday, July 27, 2012, for the purpose of transitioning all DTEA students to a new school.

If you have any questions or need any additional information regarding this Final Decision to Revoke and Notice of Facts Supporting Revocation, please contact Sue Burr, Executive Director, SBE at 916-319-0938 or via e-mail at SBurr@cde.ca.gov.

Sincerely,

Dr. Michael Kirst
President
California State Board of Education

MK:dv

cc: Susan K. Burr, Executive Director, State Board of Education
Judy M. Cias, Chief Counsel, State Board of Education
bc: Deborah Sigman, Deputy Superintendent of Public Instruction, California Department of Education
Julie Russell, Director, Charter Schools Division, California Department of Education
Joy Rosenquist, Legal counsel, Legal Division, California Department of Education

Excerpts from the Memorandum of Understanding Between the California State Board of Education and the Doris Topsey-Elvord Academy (DTEA) Closure Procedures and Appendix E

Memorandum of Understanding Section 4.5: Notification Regarding Closure, Revocation, or Renewal

At the beginning of any closure or revocation process, the School shall immediately provide at its own expense a written notification to every parent, guardian, or caregiver describing all options available for students to transfer, including specific schools. The School shall also offer administrative assistance to parents, guardians, or caregivers to provide for a timely transfer of students to other schools.

One year before a renewal is to be considered, the School shall provide at its own expense a written notification to every parent, guardian, or caregiver describing the renewal process.

Memorandum of Understanding Section 4.7: Revocation

The State Board of Education (SBE) retains the right to revoke the charter pursuant to *Education Code* (*EC)* sections 47604.5 or 47607 for specified reasons with written notice to the School that shall specify concerns, alleged violations, and issues of non-compliance. The California Department of Education (CDE) will adhere to the requirements in *EC* sections 47607(c) through (e), and any regulations approved by the SBE and the Office of Administrative Law prior to revocation of the charter.

During the period prior to revocation, the School shall have the opportunity to work collaboratively with the CDE or its designee to address the concerns and develop a plan to remediate all areas to the satisfaction of the CDE and the SBE. During this period of time, the School shall attempt to resolve the concerns and complete remediation. This provision may require an amendment to the charter.

Under circumstances where the CDE determines there is a severe and imminent threat to the health or safety of students, the CDE may take immediate action to assure the safety and well being of the students including but not limited to closure of the School. The SBE will be apprised of the situation before any action is taken.

Memorandum of Understanding Section 4.8: Closure Procedures

The School's charter will include a description of the procedures to be used in the event the School closes. The procedures must, at a minimum, contain all of the elements in *California Code of Regulations*, Title 5, Section 11962 (see Appendix E).

If the School is to close permanently for any reason, the CDE will serve written notice on the School that the School's closure procedures have been invoked. The School will immediately notify the CDE of the specific individual responsible for coordinating the School's closure procedures. The CDE will identify a CSD staff member to work with the School to complete all closure activities.

Pursuant to *EC* Section 47604.3, the School expressly acknowledges the right of the CDE on behalf of the State Superintendent of Public Instruction to take immediate and direct control of the School's student and business records at any time after the CDE gives written notice that it is invoking the closure procedures.

Appendix E
Invoking Closure Procedures

Item	Description	Lead Contact	Due Date	Verified
1	In the case of revocation or non-renewal, the California Department of Education (CDE) shall notify the charter school in writing that the closure procedures have been invoked. In the case of voluntary surrender, the charter school shall notify the CDE in writing that the closure procedures have been invoked.			

Immediate Actions

Item	Description	Lead Contact	Due Date	Verified
2	The charter school shall immediately notify the CDE of the location of all student and business records. Following that notification, no student or business records shall be disposed of, moved, or duplicated without the express written consent of the CDE, except that student records may be copied for students' families or transferred to other schools, provided a notation is kept of the records copied or transferred.			
3	The charter school and the CDE shall each immediately identify an individual who will serve as the single point of contact for the entity regarding the school's close out activities.			
4	The CDE shall immediately notify the charter school in writing whether, on behalf of the State Superintendent of Public Instruction, it is taking over immediate and direct control of all the school's student and business records.			

Students and Families

Item	Description	Lead Contact	Due Date	Verified
5	The charter school shall notify the family of each student enrolled of the school's closure. Unless the CDE otherwise directs, the notification shall be immediate in the case of a revocation (that takes immediate effect) or shall occur within ten days of the invocation of the closure procedures in the case of closure at the end of current academic year.			
6	The charter school shall continue instruction until the end of the current academic year (unless a revocation takes immediate effect). The charter school shall publicly announce cancellation of all future classes.			
7	If the charter school continues instruction to the end of the current academic year, report cards shall be issued within seven days of the end of classes.			
8	The charter school shall notify surrounding school districts and the county office of education within fourteen days of the school's forthcoming closure (or immediate closure if a revocation takes immediate effect).			
9	The charter school shall provide information to students and families regarding alternative public school placements within 30 days of the announcement of the school's forthcoming closure, or immediately in the case of a revocation that takes immediate effect.			
10	The charter school shall offer to provide a copy of each student's cumulative file upon request of the student's family. The school shall provide the copy within seven days of a request being received, ensuring that the documents are given to the family member identified as having legal custody or guardianship of the student.			
11	The charter school shall comply within seven days to requests for the transfer of students' cumulative files to other public or private schools in which the students enroll.			

Item	Description	Lead Contact	Due Date	Verified
12	The charter school shall respond within seven days to inquiries from students and their families and from the media regarding the school's closure, the disposition of student and business records, and the alternative placement available to the students.			
13	The charter school shall provide the CDE within fourteen days with a list of students (names, addresses and phone numbers) in each grade level and the classes they have completed. Identify each student's district of residence, and a notation of where the student's records have been transferred.			
14	The charter school, if a local educational agency (LEA) in a special education local planning area (SELPA), shall notify the SELPA within fourteen days of the closure, complete all documentation necessary for special education students and transfer copies of the student's records to the SELPA.			
15	The CDE shall respond promptly to inquiries from students and their families and from the media as necessary.			

Student and Business Records

Item	Description	Lead Contact	Due Date	Verified
16	Once the closure procedures have been invoked, no student or business records shall be disposed of, moved, or duplicated without the express written consent of the CDE, except for the duplication or transfer of student cumulative files as noted.			
17	At the point the charter school is dissolved, the student and business records shall come under the exclusive control of the CDE which shall distribute, maintain, or dispose of the records as it determines appropriate.			

Item	Description	Lead Contact	Due Date	Verified
18	The charter school shall terminate all present leases, service agreements and other contracts not necessary for the close out of the school. Leases, service agreements, and contracts should be terminated in a cost effective manner in order to minimize expenses.			
19	The charter school shall return grant funds and restricted categorical funds to their source in accordance with the terms of the grant or state and federal law as appropriate. A final expenditure report for all grants will be submitted within fourteen days. Federal grants must be closed out, including the filing of the required Final Expenditure Reports and Final Performance Reports. Federal Forms 269 and 269a may apply if the school was receiving funds directly from the U.S. Department of Education.			
20	Close all financial records of the school as of revocation or closure date.			

Faculty and Staff

Item	Description	Lead Contact	Due Date	Verified
21	The charter school shall immediately notify its faculty and staff of the school's closure, providing each with necessary information related to compensation and retirement, including, but not limited to, any optional benefits that they may continue after the school closes.			

Item	Description	Lead Contact	Due Date	Verified
22	The charter school shall provide the CDE within fourteen days with a description of current and projected payroll and payroll benefits commitments through closure, including a list of each employee, and their job duties, and a projection of the funds necessary to: (1) transition the students and records; (2) complete all administrative closure related tasks; and (3) complete contracts and grants.			
23	The charter school shall provide CDE within fourteen days with notice of any outstanding payments to staff and the method by which the school will make the payments.			
24	The charter school will within fourteen days contact the California State Teachers' Retirement System (CalSTRS), California Public Employees' Retirement System (CalPERS), and the county office of education and follow their procedures for dissolving contracts and reporting, copying the CDE on all correspondence.			
25	Prior to final closeout, the charter school shall do all of the following on behalf of the school's employees: • File all final federal, state, and local employer payroll tax returns and issue final W-2s and Form 1099s by the statutory deadlines. • File the Federal Notice of Discontinuance with the Department of Treasury (Treasury Form 63). • Make final federal tax payments (employee taxes, etc.) • File the final withholding tax return (Treasury Form 165). • File the final return with the IRS (Form 990 and Schedule).			

Assets and Liabilities

Item	Description	Lead Contact	Due Date	Verified
26	The charter school shall notify all funding sources (including charitable partners) of the school's closure within fourteen days.			
27	The charter school shall immediately notify all contractors (such as a charter management organization, education management organization, food service provider, instructional service provider, or transportation service provider) of the school's closure.			
28	If the charter school has any agreements with organizations representing employees, the charter school shall notify the organizations of the school's closure as may be specified in the agreements.			
29	The charter school shall notify the CDE within fourteen days of all pending litigation to which the school is a party. The charter school shall immediately notify the CDE if litigation is filed thereafter up to the point that the school is formally dissolved.			
30	The charter school, within 30 days, shall prepare and deliver to the CDE a comprehensive list of creditors and debtors.			
31	The charter school, within 30 days, shall prepare and deliver to the CDE a comprehensive inventory of all assets.			

Item	Description	Lead Contact	Due Date	Verified
32	The charter school, within 30 days, shall prepare and deliver to the CDE a plan for the proposed disposal of all property owned by the school (and acquired with public funds) in order to maximize revenue in accordance with law, payment of any and all liabilities and the disbursement of any remaining assets of the school, liquidation of assets to pay off any and all outstanding liabilities, bearing in mind that assets paid for by state funds may be transferred in accordance with the nonprofit corporation's bylaws to another public agency such as another charter school. Assets donated to the school may be returned to donors or disposed of in accordance with donor's wishes. Net assets, (after the payment of outstanding liabilities), if any, may be transferred to another public agency such as another charter school.			
33	The charter school shall arrange for preliminary (if necessary) and final closure audits to be paid for from the special reserve or bond revenue. The auditor engaged to perform the audit(s) shall be from the list of approved school auditors maintained by the California State Controller's Office and shall be approved by the CDE. The audit(s) at a minimum shall determine the disposition of all assets and liabilities of the charter school and shall verify the school's comprehensive list of creditors and debtors, and the amounts owed or owing, as well as verify the school's comprehensive list of all assets by source, noting any restrictions on each asset's use.			
34	Based on the audit findings, and with the approval of the CDE, the charter school shall expend any identified assets to liquidate any identified liabilities.			

Dissolution of the School (Corporate) Entity

Item	Description	Lead Contact	Due Date	Verified
35	Following the resolution of all outstanding assets and liabilities, the charter school shall be dissolved. If established as a nonprofit public benefit corporation pursuant to California *Education Code* Section 47604, the corporation shall be dissolved.			

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 20

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Environmental Effect of the Proposed Formation of the Bonsall Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE(S)

A California Department of Education (CDE) analysis of a proposal to unify the area of the Bonsall Union Elementary School District (ESD) that is within the Fallbrook Union High School District Union (HSD) is on the current agenda. However, the California State Board of Education (SBE) must take action to comply with California Environmental Quality Act (CEQA) requirements before it can approve the unification, if it chooses to do so.

The SBE is the lead agency for all aspects of school district unifications, including reviewing potential impacts on the environment in accordance with CEQA and state guidelines. In its role as lead agency, the SBE gave responsibility for conducting and funding all matters related to completing CEQA requirements to the Bonsall Union ESD, while retaining its lead agency oversight role. The SBE also delegated authority to the CDE to administer and oversee the CEQA requirements on its behalf.

The CDE participated in necessary local activities, including review of the Initial Study and attending local public hearings. The Bonsall Union ESD contracted with the Haynie Law Group to conduct the Initial Study (Attachment 2). The study describes the project and its potential impacts on the environment.

A copy of the Initial Study and Negative Declaration, concluding that the proposed unification would not have any significant effects on the environment, was filed with the State Clearinghouse for state agency review for a 30-day period (January 25, 2012 through February 27, 2012). A copy of the Initial Study and Negative Declaration were available for public review also at the Bonsall Union ESD, the San Diego County Office of Education, and the Fallbrook Public Library. In addition, a legal notice of the public hearing was published in a local newspaper of general circulation. No state agency submitted comments, and no one commented at the public hearing or submitted written comments.

RECOMMENDATION

The CDE recommends that the SBE adopt the Negative Declaration in the attached resolution (Attachment 1), which finds that there is no substantial evidence that the project (proposed unification) will have a significant effect on the environment.

BRIEF HISTORY OF KEY ISSUES

In *Fullerton Joint Union High School District v. State Board of Education* (1982), 32 C. 3d 779, 187 Cal. Rptr. 398, the Supreme Court held that reorganization of school district boundaries may be a project within the scope and meaning of CEQA and that the SBE, as the state agency making the ultimate decision prior to the election for the formation of a new school district, is the lead agency pursuant to California *Public Resources Code* Section 21067. As the lead agency, the SBE is required to consider the effect of a proposed reorganization on the environment prior to approving such reorganization.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has not previously considered the effect of this proposed reorganization on the environment. The SBE at its July 2011 meeting indicated that it would consider the unification proposal after the Bonsall Union ESD conducted and funded required CEQA activities.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal effect in adopting the proposed Negative Declaration.

ATTACHMENT(S)

Attachment 1: Resolution of the SBE Adopting Negative A Declaration (2 pages)

Attachment 2: “Bonsall Union School District Unification Initial Study and Negative Declaration,” January 3, 2012 (24 pages)

RESOLUTION OF THE CALIFORNIA STATE BOARD OF EDUCATION ADOPTING A NEGATIVE DECLARATION AND MAKING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS RELATING TO A PROJECT TO FORM A UNIFIED SCHOOL DISTRICT FROM TERRITORY OF THE CURRENT BONSALL UNION ELEMENTARY SCHOOL DISTRICT AND CORRESPONDING TERRITORY OF THE FALLBROOK UNION HIGH SCHOOL DISTRICT

WHEREAS, the Bonsall Union Elementary School District (ESD) is a component district of the Fallbrook Union High School District (HSD) in San Diego County and provides public education services to kindergarten through eighth grade students; and

WHEREAS, a petition, pursuant to subdivision (a) of California *Education Code* Section 35700, to form a unified school district (providing public education services to kindergarten through twelfth grade students) from the territory of the Bonsall Union ESD (and corresponding territory of the Fallbrook Union HSD) was determined to be sufficient and signed as required by law on or about May 31, 2007, by the San Diego County Superintendent of Schools; and

WHEREAS, said petition was considered by the San Diego County Committee on School District Organization and transmitted on or about February 7, 2008, to the California State Board of Education (SBE) with a recommendation for approval; and

WHEREAS, pursuant to the California Supreme Court (*Fullerton Joint Union High School District v. State Board of Education* [1982], 32 C. 3d 779, 187 Cal. Rptr. 398) an action to form a new unified school district may be a project under the California Environmental Quality Act (CEQA) with the SBE as lead agency pursuant to California *Public Resources Code* Section 21067, and

WHEREAS, the SBE allowed the Bonsall Union ESD on July 14, 2011, to conduct and fund all activities required under CEQA, with the understanding that the full unification issue may return to the SBE at a future date; and

WHEREAS, the SBE delegated authority to the California Department of Education (CDE) to administer and oversee the activities required under CEQA on behalf of the SBE; and

WHEREAS, the Bonsall Union ESD has conducted and funded all activities required under CEQA, culminating in preparation of a Negative Declaration (California *Public Resources Code* Section 21064).

THE SBE HEREBY MAKES THE FOLLOWING FINDINGS WITH RESPECT TO CEQA:

1. The SBE finds that the Negative Declaration was prepared in accordance with all legal requirements, including all public notice and comment period requirements; and

2. The SBE declares that it has considered the Negative Declaration and all comments received within the public comments period, as well as written and oral comments received after the public comment period and prior to the date of this Resolution, and finds the Negative Declaration reflects the SBE's independent judgment and analysis; and

3. The SBE finds, on the basis of the CEQA documentation prepared by the Bonsall Union ESD, that there is no substantial evidence that the Project, as described in the Negative Declaration, will have a significant effect on the environment; and

4. The SBE designates the California Department of Education, 1430 "N" Street, Suite 5111, Sacramento, CA 95814, as the location and custodian of the documents and other material constituting the record of proceedings upon which this decision is based.

NOW, THEREFORE, BE IT RESOLVED by the California State Board of Education, based upon the oral and documentary evidenced as received, that the Negative Declaration is hereby adopted.

Bonsall Union School District Unification
Initial Study
And Negative Declaration

Prepared for:
California Department of Education
1430 N Street
Sacramento, CA 95814

Prepared by:
Haynie Law Group
Excel Centre
17140 Bernardo Center Drive, Suite 354
San Diego, CA 92128

January 3, 2012

Project Information

Project Proponent and Contact Person:	Bonsall Union School District 31505 Old River Road Bonsall, CA 92003 Tom Krzmarzick, 760-631-5200
Lead Agency and Contact Person:	California State Board of Education 1430 “N” Street; Ste. 5111 Sacramento, CA 95814 Larry Shirey; 916-322-1468

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Figure 1 Map of BUSD, Area Proposed for Unification

Attachment 1 Traffic Evaluation, LOS Engineering

1.0 Introduction

The voters of the Bonsall Union School District (BUSD) have petitioned the California State Board of Education (SBE) to change the current government structure from separate elementary and high school districts to one unified district to serve grades K-12 (Project). The BUSD voters first decided to seek unification in 2007 and submitted the required petition to the San Diego County Committee on School District Organization (County Committee), which transmitted the petition to the SBE along with its recommendation to approve the petition. In July 2011, the SBE voted to allow the unification petition to return to the SBE following the completion of the California Environmental Quality Act (CEQA) process. Upon completion of this process, the SBE will decide whether to adopt a resolution approving the petition to form a new unified school district.

1.1 Overview and Regulatory Guidance

This draft Initial Study and Negative Declaration (Draft IS/ND) for the Project has been prepared under the guidance of the lead agency, the California Department of Education (CDE) on behalf of the lead agency, the SBE, which has oversight and authority over proposed unification actions. The SBE has delegated authority to the CDE to administer and oversee the CEQA requirements on its behalf.

An initial study is a public document used by the decision-making lead agency to determine whether a project may have any significant effects on the environment. In the case of the Project, the CDE will use the Draft IS/ND to make a recommendation to the SBE about whether the Project will have a significant effect on the environment. In accordance with CEQA Guidelines (Section 15064[a]), an environmental impact report must be prepared if there is substantial evidence, such as conclusions of an Initial Study, that a project may have significant effects on the environment. This is true regardless of whether the overall effect of the project would be adverse or beneficial. A negative declaration (ND) or mitigated negative declaration may be prepared if the lead agency determines that the project would have no potentially significant impacts or that revisions to the project, or measures agreed to by the applicant, mitigate the potentially significant impacts to a less than significant level (CEQA Guidelines Section 15063[f]). This document has been prepared to meet the requirements of the CEQA Guidelines.

1.2 Summary of Findings

In accordance with CEQA Guidelines Section 15063(b)(2), an ND shall be prepared if the lead agency determines there is no substantial evidence in light of the whole record before the public agency that the project may have a significant effect on the environment. There is no substantial evidence that the Project would have a significant effect on the environment, based on the available project information and environmental analysis presented in the Initial Study. Therefore, an ND has been prepared in accordance with the CEQA Guidelines.

1.3 Public Review and Comments

The draft IS/ND prepared for the Project is available for review at the following locations:

Bonsall Union School District
31505 Old River Road
Bonsall, CA 92003

Fallbrook Public Library
124 South Mission Road
Fallbrook, CA 92028

San Diego County Superintendent of Schools
6401 Linda Vista Road
San Diego, CA 92111

This draft IS/ND is available for a 30-day review period beginning January 25, 2012 and ending February 27, 2012 at 5:00 pm. Written comments must be submitted to:

Haynie Law Group
Excel Centre
17140 Bernardo Center Drive, Suite 354
San Diego, CA 92128

Comments may be submitted in writing, by facsimile (858-485-7707), or by e-mail (ahaynie@haynlaw.com), or at the public hearing scheduled for March 8, 2012 at the Bonsall Community Center at 31505 Old River Road, Bonsall, CA 92003.

2.0 Project Description

2.1 Project Location

The BUSD is located in northern San Diego County in an area generally located south of the community of Fallbrook, east of the City of Oceanside, and north of Escondido and Valley Center. BUSD includes the community of Bonsall, the eastern portion of the City of Oceanside and extends east to include the small community of Pala. Major roads in the area include Interstate 15, State Route 76, Mission Road, Camino Del Rey, Gopher Canyon Road, Couser Canyon Road, and Lilac and West Lilac Road. Approximately 88 square miles are in the BUSD. The Project area includes the entire BUSD district.

The area within which BUSD is located is generally rural in nature with a variety of housing types ranging from multi-family apartments and condominiums to homes on very large lots. Agriculture is an important land use throughout the Project area. There is a small commercial area and Bonsall Town Center located at the intersection of State Route 76 and Mission Road. More urban uses exist in the adjacent City of Oceanside to the west and in the community of Fallbrook located to the north of the Project area. The community of Pala, located on the Pala Indian Reservation, includes a casino, limited commercial facilities and various public services.

2.2 Background and Project Need

The Bonsall Community and the BUSD Board of Trustees (Board) have a shared vision for the unification of the BUSD; that is to provide an education for students within the BUSD through grade 12. For many years, the Board has planned and implemented phases of changes necessary to encompass a comprehensive small high school into the future opportunities for the learners in the BUSD. Three members of the current Board have been serving eight-years; one has fourteen years and one sixteen. The unification of the BUSD is a long-term work in progress. The community members initiated the petition to unify in 2007 and have long sought to have a Bonsall High School. The community and BUSD have worked with the County Committee, CDE, and SBE to complete the unification process. In July 2011, the SBE voted to allow the unification petition to return to the SBE pending the completion of the CEQA process. Upon completion of this process, the SBE will decide whether to adopt a resolution approving the petition to form a new unified school district. SBE approval will result in a local election for the final approval of the Project.

2.3 Project Objective

The Project's objective is to create a unified school district that will provide elementary and high school services to BUSD residents.

2.4 Project Description

The Project involves a change of local government structure from separate elementary and high school districts to one unified school district (i.e., the formation of a new unified school district to serve grades K–12). The SBE will decide whether to adopt a resolution approving the petition to form a new unified school district through the unification of the existing BUSD (which is comprised of two elementary schools serving grades K-5 and K-6, a charter school serving K-5, and a middle school serving grades 6-8), with the corresponding portion of Fallbrook Union High School District (FUHSD) within its boundaries

(Figure 1). An SBE resolution approving the petition triggers a local election to approve the Project. If the SBE adopts a resolution to approve the petition, it also will determine the area of election.

Subdivision (c) of the California Education Code Section 35735.2 requires that a new unified school district, within five years of the effective date of the new district, provide the school facilities necessary to provide instructional services by employees of the district to all secondary students within the boundaries of the unified school district. The Board has studied their existing facilities and has determined that Sullivan Middle School can adequately house the small high school that is envisioned for at least five years. The BUSD's plans are based on the demographics and character of the Bonsall community, and on projected growth. Grade levels at Sullivan Middle School would be reconfigured over time (approximately four years) and would serve as a high school serving grades 9-12. This phased approach will greatly reduce transition issues and effects on BUSD students and on the existing Fallbrook High School Campus. Grade levels at the existing elementary schools (Bonsall West, Bonsall, and possibly Vivian Banks Charter School) will also be reconfigured. Instead of providing for grades K-5/6, they will serve K-7/8. All of the existing schools have the facilities and capacity to serve the additional students. Current enrollment and that projected upon completion of the four-year grade reconfiguration program is shown below:

School	Current Enrollment	Projected Enrollment
Sullivan Middle School	510	510
Bonsall Elementary School	900	1,235
Bonsall West Elementary School	500	675

New facilities could include the creation of a Continuation School at an existing 0.49 acre fire station site located at 41430 Old River Road in Bonsall, and the construction of approximately 100 additional parking spaces at Sullivan Middle School.

The Continuation School is expected to serve up to 25 students. The site was previously graded and already includes structures, driveway entry and parking. Modification of the existing fire station structure would be done within the existing graded area and would consist of updating as necessary to accommodate the needs of the continuation students. The renovation could, but is not required to, include computer and internet, office and work stations.

The 100 additional parking spaces at Sullivan Middle School will be located within the boundaries of the existing campus on an unused, previously graded area that is currently mowed grass. No natural vegetation or cultural resources will be disturbed. The parking lot will cover approximately three-quarters of an acre. Construction would not extend more than one foot below the current surface. The parking lot would be installed in accordance with existing rules and regulations and would include a bio-swale along the downhill edge to collect and filter run-off. Site preparation would involve the removal of any surface vegetation and minor scarification and leveling. The site would be watered to reduce dust. Requisite base material and asphalt paving would be installed and the parking lot would be striped. Construction would be done between the hours of 7:00am and 7:00pm, Monday through Friday. Construction should last less than one month.

The proposed unified district has yet to be formed and it is not certain that voters will approve the new school district. Moreover, there currently is no decision-making body (i.e., governing board) for the

proposed district to make any final decisions regarding how secondary students of the new proposed district will be provided instructional services. However, for purposes of CEQA, it is reasonably foreseeable that the new governing board would decide to house secondary students within existing facilities since capacity is available. This is true whether the decision-making body is the current Board appointed as an interim board or whether a newly elected board is seated concurrently with voter approval of the new proposed district. This would be the most cost effective use of the existing facilities and the proposed district's financial resources. This would also allow the successful policies and programs that are already in place at the elementary and middle school facilities to be continued through the high school instructional years.

Should the proposed Project not be approved by the voters, there will be no change in the existing condition. Elementary and middle school students in BUSD would continue to attend high schools outside of the BUSD as they do now. Although a No Project Alternative is not required under CEQA because the Draft IS/ND demonstrates that the Project will not result in any significant environmental impacts, lack of approval by the voters is effectively a No Project alternative. The impacts of the proposed Project and the No Project Alternative are the same.

3.0 Environmental Checklist Form

3.1 Determination

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would not be potentially affected by the Project, meaning there are no impacts that are "Potentially Significant Impacts" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature _____ Date _____

Signature _____ Date _____

3.2 Environmental Checklist

Aesthetics

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☒
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☒
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☒

The Project would not have any significant effect on the existing aesthetic resources as it is principally a reorganization of school district boundaries. The construction of a 100-space parking lot within an existing elementary school site will not have a significant effect on surrounding views as this area is already used for overflow parking. The upgrading of the existing fire station for the Continuation School would not result in a significant effect to the existing aesthetic resources as improvements because it would be done within the existing building.

Agriculture and Forestry

II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☒
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒

The proposed project does not propose any new facilities in agricultural areas. There will be no significant effect on agricultural resources.

Air Quality

III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☒
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☒
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☒
d) Expose sensitive receptors to substantial pollutant concentrations?	☐	☐	☐	☒
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒

The Project is a reorganization of school district boundaries to allow a new unified school district to offer students both elementary and high school educational services. No air quality impacts will result from such reorganization. In fact, there will be a slight reduction in vehicle miles traveled for those students who will attend high school in Bonsall at the Sullivan Middle School site because they will no longer have to drive the 8-9 miles from Sullivan Middle School to Fallbrook High School, which will slightly lessen overall automobile emissions.

Any necessary remodeling/updating of the existing fire station building so that it can be used as the Continuation School would be done internally and no significant emissions of air pollutants are anticipated in connection with that remodeling/updating. Construction of the new parking lot (see Project description) will be done in accordance with applicable regulations and codes to ensure any effect on air quality would be minimal and localized. Grading will only be necessary to remove existing non-native vegetation and to prepare the site to accept the base material and asphalt paving. The site will be watered during site preparation to minimize dust. Minimal equipment will be used to construct

the parking lot and the parking lot improvements will be completed in less than 30 days. Any equipment storage will be on the existing parking lot. Only equipment used in the construction of the new parking lot will be allowed to be stored onsite. The effect on air quality resulting from the construction of the parking lot will be less than significant.

Biology

IV. BIOLOGICAL RESOURCES: Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☒
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☒
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☒
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☒
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☒
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☒

The Project does not include the construction of any new facilities on land that is currently occupied by natural habitat. The Continuation School is located on a completely disturbed property that is currently occupied by a fire station. The additional 100 parking spaces will be located within an existing facility on land that is currently mowed grass. There will be no significant effect on biological resources.

Cultural Resources

V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	☒
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☐	☒
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☒

d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☒

Facilities that could be constructed as a result of the Project are all located on previously disturbed, graded land. No disturbance of land is anticipated for the Continuation School. Construction of the new parking lot will not extend more than one foot below existing ground level. The parking lot site was graded previously and no cultural resources were found at that time. No significant effect on cultural resources are anticipated.

Geology and Soils

VI. GEOLOGY AND SOILS. Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☒
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☒
ii) Strong seismic ground shaking?	☐	☐	☐	☒
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☒
iv) Landslides?	☐	☐	☐	☒
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☒
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☒
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☒
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☒

The Project would not result in significant impacts due to geologic factors or unfavorable soils. The proposed parking lot would be located within an existing school site and would be constructed according to existing building codes. The Continuation School would be located in an existing building that would be updated, again according to existing applicable building codes. According to the County of San Diego Geologic Hazards Guidelines for Determining Significance, neither the 100 space parking lot nor the Continuation School is located in an area with known geologic hazards (fault rupture or shaking zones, liquefaction area, landslides).

Greenhouse Gas Emissions

VII. GREENHOUSE GAS EMISSIONS. Would the project:

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? See Additional Information.	☐	☐	☐	☒
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒

The Project does not add new trips to area roads nor will extensive new facilities be created that would attract automobiles or generate emissions. The shorter distance from many homes to Sullivan Middle School (as compared to driving an additional 8-9 miles to Fallbrook High School) might result in a slight reduction in vehicle miles traveled and a concomitant slight reduction in greenhouse gas emissions throughout the new unified district. No significant effect resulting from greenhouse gas emissions is anticipated.

Hazards and Hazardous Materials

VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☒
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☒
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☒
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒

The Project is a reorganization of school district boundaries and relies upon existing facilities. Construction of the new parking lot on the existing school grounds and updating/remodeling of the existing fire station building so that it can be used as the Continuation School will not create, emit or

expose a human population to hazardous materials. Neither the existing schools nor the proposed new parking lot and Continuation School are located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. There are no airports in the vicinity of any of the existing schools or in the vicinity of the proposed new parking lot and the remodeled/updated Continuation School.

Hydrology and Water Quality

IX. HYDROLOGY AND WATER QUALITY. Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☒
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☒
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☒
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☒
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☒
f) Otherwise substantially degrade water quality?	☐	☐	☐	☒
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☒
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☒
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☒
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☒

The proposed unification will not result in a significant effect to existing hydrology and water quality. Construction of the new parking lot and remodeling/updating of the existing fire station to serve as a Continuation School will be done in accordance with existing regulations and codes. No water courses or drainage patterns would be disrupted. Construction of the new parking lot will include the inclusion of a bio-swale at the downhill edge to collect and filter run-off. None of the existing schools, the proposed parking lot and the existing fire station/Continuation School are located in a 100-year flood hazard area or in areas subject to possible seiches, tsunamis or mudflows. Runoff from the existing

schools and the fire station site would not be changed. There will be no significant effect with respect to hydrology and water quality.

Land Use and Planning

X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	☐	☐	☐	☒
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☒
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒

The proposed unification action will not result in a significant effect to land use and planning as construction of new facilities on undisturbed land is not proposed. The new parking lot will be located on mowed grass at an existing school. The Continuation School will be located on property that currently houses a fire station. As such, there will be no division of an established community, and no conflict with applicable land use plans. There is no existing habitat conservation or natural community conservation plans that effect either the existing school sites or the fire station site.

Mineral Resources

XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒

The Project will not result in a significant effect to mineral resources because it does not propose to construct any facilities on previously undeveloped land.

Noise

XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☒
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☒
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☒
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? See	☐	☐	☐	☒

Additional Information				
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒

Typically, traffic generated by any use must double to cause an increase of 3 dBA CNEL, a measure commonly regarded as being a significant direct noise impact. In this case, the number of students at any of the BUSD's schools would need to double before the traffic generated would double, resulting in a noise increase of 3 or more dBA.

The Project may result in slight changes to existing traffic patterns as the grade levels accommodated at each of the BUSD's schools are reconfigured to allow high school services to be provided. As shown in the Project Description, there will be no change in enrollment at Sullivan Middle School (510 current enrollments and 510 projected enrollments). Enrollment at Bonsall Elementary School will change from 900 current enrollments to 1,235 projected enrollment. Enrollment at Bonsall West Elementary School will change from 500 current enrollments to 675 projected enrollment). In no case is the enrollment doubled, nor will traffic generated by each school be doubled. Noise increases due to increased traffic will not reach or exceed 3 dBA. Therefore, no significant change in noise levels is anticipated.

Population and Housing

XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☒
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒

No new buildings will be constructed and no housing or other uses will be displaced. There will be no significant effect on population and housing.

Public Services

XIV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause	☐	☐	☐	☒

significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
Fire protection?	☐	☐	☐	☒
Police protection?	☐	☐	☐	☒
Schools?	☐	☐	☐	☒
Parks?	☐	☐	☐	☒
Other public facilities?	☐	☐	☐	☒

The proposed unification will result in the elementary schools operated by BUSD housing more students. These facilities have the capacity to handle these students. Area parks should not be affected as the proposed action does not create new housing or new demand for park facilities. Fire and police protection are already provided to all of the BUSD's facilities. Levels of service should not be affected by the redistribution of students.

Recreation

XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☒
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☒

The proposed Project is the reorganization of school district boundaries and will have no effect on the use of recreation facilities in the area. The proposed new parking lot and the remodeling/updating of the existing fire station building for the Continuation School will not create any additional demands for recreational facilities. There will be no significant effect upon recreation facilities.

Traffic

XVI. TRANSPORTATION/TRAFFIC. Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☒
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☒

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☒
e) Result in inadequate emergency access?	☐	☐	☐	☒
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☒

There are no applicable congestion management plans or other applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system so there is no conflict. The proposed reorganization of school district boundaries will not have any effect on air traffic patterns. As no new roads, signals or other mobility system components are being proposed; there will be no effect on emergency access or existing road configurations.

The proposed reorganization of school district boundaries will not create any new trips on area roads, but rather it will redistribute them. Over time, more students will be attending the elementary schools as they are reconfigured to provide K-8 services. It is anticipated that enrollment at Sullivan Middle School will remain the same. LOS Engineering has evaluated the potential increase in traffic at both elementary schools and concluded that the increases in the number of vehicle trips do not meet the SANTEC (San Diego Traffic Engineers' Council) criteria for preparing a traffic impact report. As a result, there are no significant traffic impacts that will result from the increase in traffic at the two elementary schools. There was no need to evaluate potential impacts at Sullivan Middle School as there will be no change in enrollment and thus no corresponding increase in traffic. (See attached LOS Engineering letter)

Utilities and Service Systems

XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☒
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☒
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☒

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☒
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☒
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☒

The Project is the reorganization of school district boundaries. No new schools will be needed to accommodate projected enrollment. The existing schools are already connected to potable water, sanitary sewer and storm drain systems. The fire station building which will be remodeled/updated to serve as a Continuation School is also similarly connected to existing utilities. The new parking lot will be constructed in accordance with existing codes and regulations and will not require new storm drain facilities.

Utilities and service systems are provided to a region that is much larger than the current district boundaries. At a regional level, there will not be any increase in the use of utility and service systems, including landfills, because there is no increase in the overall number of students attending regional schools. Students are only being re-distributed to different schools (i.e. from Fallbrook High School to Sullivan Middle School).

3.3 Findings of Significance

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☒
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☒
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☒

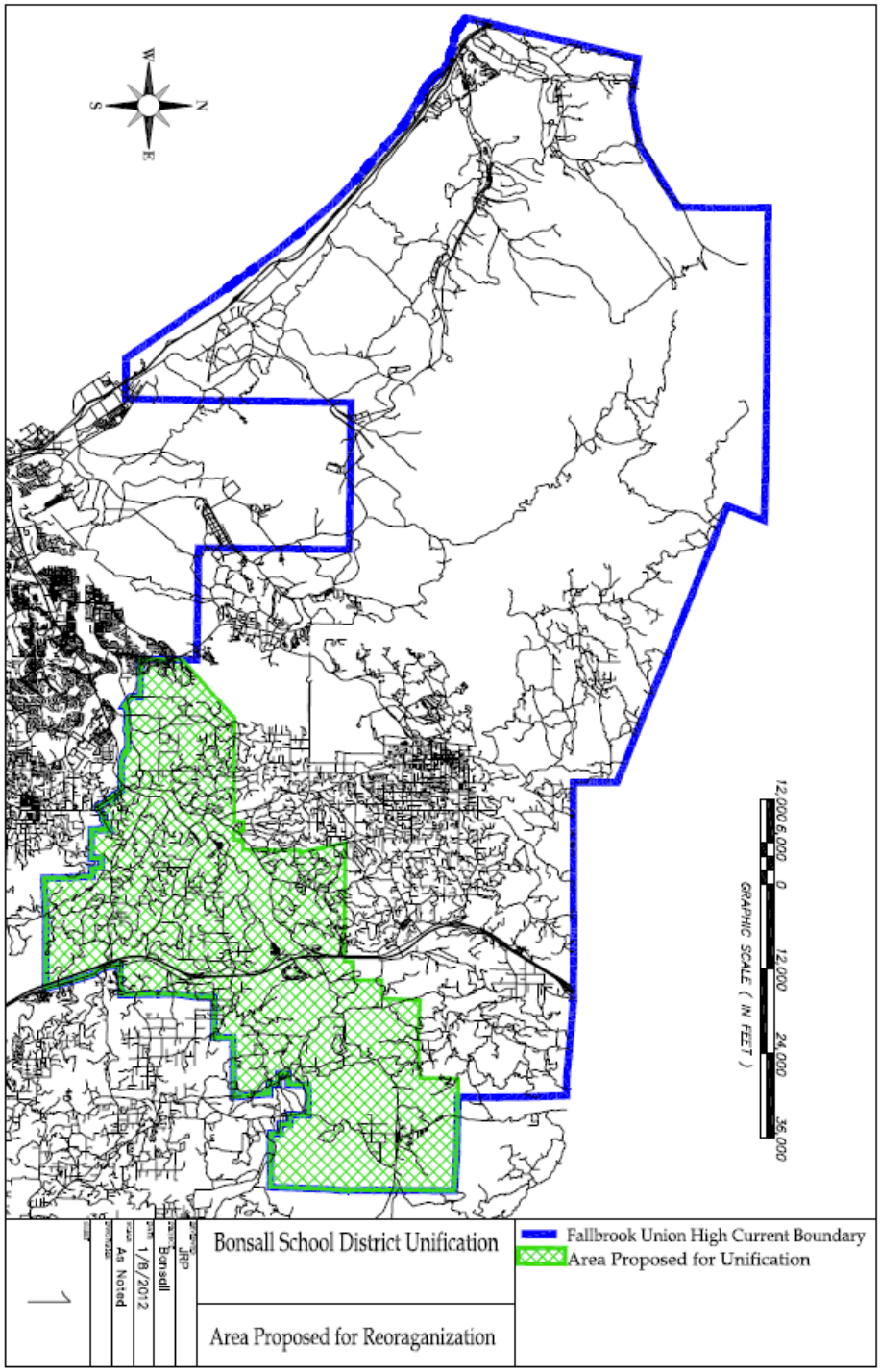
The Project will not degrade the quality of the environment, both built and natural. The project will not have significant biological or cultural resources impacts.

The Project will not result in substantial cumulative impacts because students are simply being redistributed, i.e. the Fallbrook Union High School District will see a decrease in students while the new unified district will see an increase in the number of students.

The Project will not result in any substantial adverse effects on human beings.

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino,*(1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors,* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Figure 1:Map of BUSD, Area Proposed for Unification



LOS Engineering, Inc.
Traffic and Transportation

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October 24, 2011

Dr. Justin Cunningham, Ed. D., Superintendent
Bonsall Union Elementary School District
31505 Old River Road
Bonsall, CA 92003

Dear Dr. Cunningham:

This letter is to introduce myself and the services of LOS Engineering, Inc. Since January 2004, LOS Engineering, Inc. has been preparing traffic and parking studies as stand-alone documents or as part of Environmental Impact Reports/Statements. The firm's philosophy is to provide accurate, timely, and cost-effective solutions to each client. I have personally prepared several traffic studies for both public and private schools throughout the San Diego region.

I understand the Bonsall Union School District is pursuing a unification process. I also understand Bonsall serves a vast area including the eastern portions of the City of Oceanside, Bonsall, portions of Valley Center, and includes the community of Pala. With coverage over several jurisdictions, the option exists of using individual jurisdiction's significance criteria or the regional significance criteria prepared by the San Diego Traffic Engineers' Council (SANTEC). SANTEC criteria are also used by the City of Oceanside and the San Diego Association of Governments (SANDAG) as part of the region's Congestion Management Program (CMP).

The SANTEC criteria notes that a traffic study should only be prepared if a project exceeds 1,000 Average Daily Trips (ADT) or 100 peak hour trips if in conformance with the underlying land use. If the number of students that shift between schools does not exceed the aforementioned traffic threshold, then a traffic generation letter can be prepared to fulfill the California Environmental Quality Act (CEQA) requirements in place of a traffic study.

For the unification process, my understanding is that Bonsall Elementary, Bonsall West Elementary, and Sullivan Middle School will each have a change in the number of students. Due to continuing enrollment fluxuations, the number of new students will be added to a fixed student body number such as the school's capacity. According to Mr. Tom Krzmarzick, the capacity of Bonsall Elementary is 1,051 students, while Bonsall West Elementary is 620 students, and Sullivan Middle School is at 510 students.

Bonsall Elementary with a capacity of 1,051 students would see an increase of 184 students to reach the anticipated 1,235 students as part of the unification process. The SANDAG trip generation for 184 elementary students is less than the SANTEC threshold; therefore, a traffic study would not be required.

Bonsall West Elementary with a capacity of 620 students would see an increase of 55 students to reach the anticipated 675 students as part of the unification process. The SANDAG trip generation for 55 elementary students is less than the SANTEC threshold; therefore, a traffic study would not be required.

Sullivan Middle School with not have a change in the number of students; therefore, a traffic study would not be required per SANTEC.

If the number of students that shift between schools does not exceed the aforementioned levels, then a traffic generation letter can be prepared to fulfill CEQA requirements in place of a traffic study. If you should have any questions, please call me at (619) 890-1253.

Sincerely,
LOS Engineering, Inc.

Justin Rasas

Justin Rasas, P.E., PTOE
Principal and Officer of LOS Engineering, Inc.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 21

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Proposed Formation of the Bonsall Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE(S)

The Bonsall Union Elementary School District (ESD) is one of three component elementary districts within the Fallbrook Union High School District (HSD). The Fallbrook Union ESD and the Vallecitos ESD are the other two component districts. At least 25 percent of the registered voters of the Bonsall Union ESD signed a petition (Attachment 7) proposing the formation of a unified school district from the territory of the Bonsall Union ESD. The boundaries of this new unified school district would be the existing boundaries of the Bonsall Union ESD. The territory of the Fallbrook Union HSD within those boundaries also would be part of the new unified district, while the remaining territory of the Fallbrook Union HSD would continue as a high school district with two component elementary districts (the Fallbrook Union ESD and the Vallecitos ESD).

The petitioners gave the following reasons for requesting the formation of a unified school district:

- We desire to establish a unified school district that will be responsive to the unique needs of our rural and geographically isolated student population.
- We desire to provide a coordinated, sequential educational program for our children from preschool through twelfth grade.
- We believe unification will increase collaboration between elementary staff, secondary staff, and the community in our pursuit of national, state, county, and local educational goals.
- We believe that unification will provide a more effective use of district resources.
- We believe it is necessary to unify to provide safe and effective services in the specific areas of health care, child nutrition, and special services.

- We desire a unified educational system whereby educational expectations and accountability are driven by a single board of trustees and a single administration representing the Bonsall community.

At the August 2007 County Committee public hearing the Bonsall Union ESD expressed support for the proposed unification, while the Fallbrook Union HSD expressed opposition. However, the Fallbrook Union HSD governing board is not expressing opposition to the proposed unification at this time. The Fallbrook Union ESD and the Vallecitos ESD—the remaining component districts of the Fallbrook Union HSD—did not take a position of support or opposition regarding the proposed reorganization.

In 2007, the County Committee commissioned a study—"Report on the Study of County of Formation of the Bonsall Unified School District," December 2007 (County Committee Study)—to analyze the effect of the proposed unification with respect to the nine required conditions listed in California *Education Code* (*EC*) Section 35753(a). The County Committee Study concludes that (1) five of the nine conditions are substantially met; (2) the property distribution condition is met only if the election area for the vote on unification includes the entire Fallbrook Union HSD; and (3) three conditions are not met (educational programs, increase in school facilities costs, and fiscal management and status).

At a meeting on December 3, 2007, the County Committee determined that the proposed unification fails to substantially comply with two of the nine conditions: increase in school facilities costs and fiscal management and status. The County Committee expressed concerns regarding whether (1) state facilities funding would be reduced because of duplicative seats; (2) the remaining Fallbrook Union HSD would retain sufficient bonding capacity to construct an additional high school; and (3) the new district would be able to offer salaries comparable to those offered by the Fallbrook Union HSD without a revenue limit increase for salary or benefit differences.

Subsequently, also at the December 3, 2007, meeting, the County Committee voted 3-2 to recommend approval of the petition. Following the vote to recommend approval of the petition, the County Committee voted unanimously to recommend expanding the election area to the entire Fallbrook Union HSD. These recommendations were then transmitted to the California State Board of Education (SBE).

The California Department of Education (CDE) first presented this unification proposal to the SBE at its July 2011 meeting. At that meeting, the CDE recommended that the unification proposal meets the increase in facilities costs condition. CDE's School Facilities Planning Division (Attachment 5) explains how unification could have a positive effect on Fallbrook Union HSD's facility requirements. The district would be able to reduce its inventory of 33 portables, reclaim field and hard-court areas, and reduce the size and scope of any new school.

The CDE also recommended, at the July 2011 SBE meeting, that the unification proposal substantially met the fiscal management and status condition. Although the County Committee Study had indicated that the disparity in salaries between the elementary and high school districts could cause a financial hardship for the new

district, the July 2011 CDE analysis noted that the disparity in salaries between the districts had narrowed, both districts had reserve levels well above the required 3 percent, and the decrease in Fallbrook Union HSD's revenue due to the loss of approximately 526 students as a result of the reorganization would be gradual, allowing the high school district sufficient adjustment time.

The SBE did not take action to approve or disapprove the unification proposal at the July 2011 meeting—instead, it decided to give the Bonsall Union ESD responsibility to comply with required California Environmental Quality Act (CEQA) prior to approval or disapproval (see the Summary of Previous State Board of Education Discussion and Action of this item for more details). The unification proposal is back before the SBE at this July 2012 meeting along with an item addressing CEQA.

Between July 2011 and July 2012, Fallbrook Union HSD's fiscal health worsened due to declining enrollment, increases in operating costs, and the ongoing state fiscal crisis. As a result, the CDE now recommends the fiscal management and status condition is not met. (See the Fiscal Analysis of this item for more details.) The CDE, consistent with its July 2011 recommendations, finds that the remaining conditions (including the increase in facilities costs condition) are substantially met.

Despite recommending that the fiscal management and status condition is not substantially met, the CDE concurs with the County Committee vote recommending approval of the unification proposal. The CDE recommendation of approval is based on its analysis (Attachment 1) of the *EC* Section 35753(a) conditions and the fact that the SBE may consider circumstances that provide an exceptional situation sufficient to justify approval (*EC* Section 35753(b]). There are a number of mitigating circumstances to Fallbrook Union HSD's loss of students and funding as a result of the reorganization as well as other exceptional circumstances:

- The loss of students would be gradual, over a four to five-year period as the new district converts facilities and adds a grade level each year, starting with ninth grade.

- The governing board of the Bonsall Union ESD has invested a substantial effort in planning for a high school education for students within its boundaries (see Attachment 9). The governing board has planned to provide a smaller academy high school and "seeks to offer an attractive option to the large, comprehensive, or magnet high schools nearby." As such, this academy will not offer comprehensive sports programs or a number of other extra-curricular programs that attract high school students. Therefore, it is highly likely that a substantial number of high school-age students will seek other options for high school, primarily Fallbrook High School (Fallbrook Union HSD) and Mission Vista High School (Vista Unified School District). This option would be conditional upon the approval of interdistrict attendance agreements between the new unified school district and the district receiving the students.

- Because the transition will be gradual and a substantial number of Bonsall students may choose to attend school in Fallbrook, the SBE may choose to

include a provision in the plans and recommendations of the unification proposal that retains existing levels of obligations for the high school district's outstanding bonded indebtedness (as discussed in sections 5.3 and 8.0 of Attachment 1). Thus, unification would not result in increased tax levels for property owners in the remainder of the high school district.

- The Bonsall unification may actually provide more stability to the Fallbrook Union HSD than other options (e.g., charter schools). For example, consider the Wiseburn SD in Los Angeles County. This elementary district, similar in size to the Bonsall Union ESD, has been pursuing unification for over ten years but that has not been successful for a number of reasons. While the Wiseburn SD continues to pursue unification, it opened two charter high schools that enrolled almost 700 students within their first two years of operation. The community and governing board of the Bonsall Union ESD is very similar to the community and governing board of the Wiseburn SD in the long-term commitment to providing a high school education for its students.

- Approval of the unification proposal will help to ease the current overcrowded conditions at the Fallbrook Union HSD and allow the district to reduce its inventory of 33 portable classrooms currently at the high school site. Moreover, the high school district has been investigating constructing a new high school facility, and a Bonsall high school site would reduce the scope and costs of any new Fallbrook Union HSD school site. (See Section 5.7 of Attachment 1 for more information.)

- A high school site in the Bonsall community will reduce the travel distance for high school students that would have to attend a high school outside the Bonsall community. (See Section 5.2 of Attachment 1 for more information about this issue.)

- The governing board of the Fallbrook Union HSD, as the elected representatives of the high school community, is not expressing any opposition to the Bonsall unification proposal.

- The San Diego County Office of Education will continue to work with all districts in the county to address ongoing fiscal issues.

Furthermore, the SBE may consider, given the protracted and continuing fiscal concerns in California, that "it is not practical or possible to apply" the fiscal condition stated in *EC* Section 35753(a)(9) and discussed in Section 5.9 of Attachment 1. Most school districts are negatively affected by the state's fiscal circumstances and adherence to this condition may make it difficult to approve any school district reorganization activity.

RECOMMENDATION

The CDE recommends that the SBE consider the conditions noted in Section 8.0 of Attachment 1, find that these or other SBE conditions "provide an exceptional situation

sufficient to justify approval of the proposal," and adopt the proposed resolution in Attachment 2, thereby approving the proposal to form a new unified (kindergarten through twelfth grade) school district from the Bonsall Union ESD and the corresponding portion of the Fallbrook Union HSD. The proposed resolution also includes additional provisions to the plans and recommendations of the proposal that are included in Section 7.0 of Attachment 1 (e.g., expanding the area of election to the entire Fallbrook Union HSD).

BRIEF HISTORY OF KEY ISSUES

EC Section 35700(a) establishes a process through which voters may initiate an action to reorganize school districts by filing, with the county superintendent of schools, a petition signed by at least 25 percent of the registered voters residing in the territory proposed for reorganization. The county committee on school district organization has responsibility for considering and subsequently recommending that the SBE approve or disapprove these petitions to reorganize school districts. County committees consider such proposals pursuant to the appropriate provisions of the *EC* (commencing with Section 35700).

The SBE considers reorganization proposals pursuant to the appropriate provisions of the *EC* (commencing with Section 35750). If approval is given, the county superintendent calls an election on the proposal in an area determined by the SBE.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the July 2011 meeting, the SBE considered the potential merits of this unification proposal as the first step of the decision process before costs were incurred to conduct studies pursuant to California Environmental Quality Act (CEQA) guidelines. At that time, the CDE, based on its analysis, concluded that the unification proposal met all the required conditions of *EC* Section 35753(a). The SBE unanimously voted to allow the Bonsall Union ESD to conduct and fund the CEQA study upon approval of Bonsall Union ESD's governing board, with the understanding that the full issue would return to the SBE.

FISCAL ANALYSIS (AS APPROPRIATE)

In the July 2011 report to the SBE, the CDE identified no substantial negative effects on the fiscal management or status of either district. Both districts had been fiscally sound for several years, maintaining reserves for economic uncertainties above the 3 percent recommended level for districts of their type and size.

Currently, however, projections indicate that the ongoing state fiscal crisis, declining enrollment, and increases in operating costs have affected Fallbrook Union HSD's fiscal health. The district filed a 2011–12 First Interim Report with a "qualified certification." Most recently, the Fallbrook Union HSD also submitted its 2011–12 Second Interim

Report with a “qualified certification.” A “qualified certification” means that the district may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. Taking into consideration anticipated state funding levels, Fallbrook Union HSD’s multi-year projection shows deficit spending in the Unrestricted General Fund of $1.5 million in 2012–13 and $2.0 million in 2013–14. The San Diego COE is concerned about the deficit spending that, unless changed, could lead to district insolvency in 2013–14. Expenditure reductions (or added revenue) of approximately $1.7 million would be needed in 2013–14 to maintain a positive fund balance and meet reserve requirements. The projected reductions needed in 2013–14 represent about 10 percent of the district’s Unrestricted General Fund expenditure budget. If the reorganization is approved by the voters, the projected loss of 526 students will create additional fiscal challenges for the Fallbrook Union HSD.

- The loss of 526 students will result in a reduction of approximately $3 million or about 20 percent of Fallbrook Union HSD’s revenue limit funding. Considering the savings from the reduction of approximately 22 teachers, annual General Fund net loss to the Fallbrook Union HSD is estimated at $1 million.

- The Fallbrook Union HSD may lose its federal Impact Aid funding. The Fallbrook Union HSD receives approximately $340,000 in Impact Aid funds annually. About one-third of this amount is derived from students who live in the proposed Bonsall Unified SD territory. These students will be removed from Fallbrook Union HSD’s Impact Aid formula if the reorganization is approved by the voters. As a result, the Fallbrook Union HSD will likely become ineligible for the funding since the remaining number of students qualified to receive Impact Aid funding is projected to fall below the minimum level needed to be eligible for funding.

The Fallbrook Union HSD is projecting declining enrollment of 70 students for 2012–13 and 12 students for 2013–14. The potential loss of an additional 526 students to the new district will result in the Fallbrook Union HSD losing over 20 percent of its total enrollment. Although the loss of students due to the proposed reorganization would be gradual (i.e., taking four to five years as the new unified district adds one high school grade level per year and potentially not losing all 526 students), any incremental loss of students would be difficult given the district’s current financial condition.

As in July 2011, no potential effects on state costs due to the proposed reorganization are identified. Based on 2011–12 data from the San Diego COE, the estimated revenue limit per average daily attendance (ADA) for the new unified school district is $6,495. The new revenue limit was calculated by combining the high school district and elementary school district revenue limit funding for the affected students. If the unification is approved, the CDE will recalculate the revenue limit for the new unified district based on the appropriate information from two years prior to the effective date of the new school district. This weighted average revenue limit per ADA is revenue neutral and does not result in an increase in state costs.

Clearly, CDE’s recommendation assumes that the Fallbrook Union HSD will take the appropriate actions to manage its budget, remain solvent, and improve academic

performance. The CDE further assumes that the San Diego COE will continue to provide fiscal oversight of the district.

ATTACHMENT(S)

Attachment 1: Report of Required Conditions for Reorganization (35 pages)

Attachment 2: Proposed Resolution (2 pages)

Attachment 3: California State Board of Education Memorandum, dated August 31, 2004, to Members, State Board of Education, from Karen Steentofte, Chief Counsel, with subject: September Meeting Item W-27 Reorganization/Bond Indebtedness (2 pages)

Attachment 4: "Racial/Ethnic Report on Formation of a New Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County," California Department of Education (8 pages)

Attachment 5: California Department of Education memorandum, dated March 15, 2010, to Scott Hannan from Kathleen Moore, with subject: Bonsall USD/Fallbrook Union HSD Reorganization (1 page)

Attachment 6: "Bonsall Union School District Projected High School Site Specifications," February 22, 2010 (1 page)

Attachment 7: Petition Language (1 page)

Attachment 8: "A Report on the Study of County of Formation of the Bonsall Unified School District," December 2007, for the San Diego County Committee on School District Organization, prepared by Caldwell Flores Winters, Inc., Cardiff, California (53 pages). This attachment is available electronically via the following link:

bonsallfinalrpt.pdf

A copy of the "Report on the Study of County of Formation of the Bonsall Unified School District" is also available for viewing at the State Board of Education Office.

Attachment 9: "Bonsall Union School District Area Unification Proposal Educational Program and Facilities Plan," February 22, 2012 (10 pages)

Attachment 10: Map of Fallbrook Union High School District, including elementary component districts (1 page)

PROPOSED FORMATION OF THE BONSALL UNIFIED SCHOOL DISTRICT FROM THE BONSALL UNION SCHOOL DISTRICT AND THAT PORTION OF THE FALLBROOK UNION HIGH SCHOOL DISTRICT IN SAN DIEGO COUNTY

REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION

1.0 RECOMMENDATION

The CDE recommends that the SBE consider the conditions noted in Section 8.0 of this attachment, find that these conditions "provide an exceptional situation sufficient to justify approval of the proposal," and adopt the proposed resolution in Attachment 2, thereby approving the proposal to form a new unified (kindergarten through twelfth grade) school district from the Bonsall Union Elementary School District (ESD) and the corresponding portion of the Fallbrook Union High School District (HSD). The proposed resolution also includes additional provisions to the plans and recommendations of the proposal that are included in Section 7.0 of this attachment (e.g., expanding the area of election to the entire Fallbrook Union HSD).

2.0 BACKGROUND

On May 14, 2007, a petition—signed by at least 25 percent of the registered voters of the Bonsall Union ESD as required by *EC* Section 35700(a)—was filed with the San Diego County Office of Education (COE). The petition (Attachment 7) proposes the formation of a new unified school district from territory of the Bonsall Union ESD and the corresponding portion of the Fallbrook Union HSD.

If the unification becomes effective, two elementary school districts (Fallbrook Union ESD and Vallecitos ESD) would remain as component districts of the Fallbrook Union HSD. The Fallbrook Union HSD operates one comprehensive, one continuation, and one alternative school. None of the high schools are within the boundaries of the Bonsall Union ESD.

County superintendents of schools are required to determine whether reorganization petitions are sufficient and signed as required by law (*EC* 35704). On or about May 31, 2007, the County Superintendent determined the petition for formation of the proposed unified district legally compliant and transmitted it to the County Committee.

The County Committee held a public hearing on August 6, 2007. Also, in 2007, the County Committee commissioned a study—"A Report on the Study of County of Formation of the Bonsall Unified School District"—(County Committee Study) to analyze the effects of the proposed unification (Attachment 8).

At a regular meeting on December 3, 2007, the County Committee considered public comments and reviewed the County Committee Study. The County

Committee Study concludes that the condition on the equitable distribution of property would be met only if the election area for the unification proposal includes the entire Fallbrook Union HSD. Further, the County Committee Study concludes that the conditions on school facilities costs, fiscal management and status, and educational programs are not met. The County Committee determined the condition on educational programs was met, but concurs with the County Committee Study that the following two conditions are not met.

- "Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization."

  The County Committee questioned whether State Allocation Board funding for the Fallbrook Union HSD would be reduced because of duplicative seats and whether the district would have sufficient bonding capacity for construction of an additional high school when needed.

- "The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization."

  The County Committee Study indicates that both districts have sound fiscal management and would likely survive the reorganization, but expresses concerns about the ability of the new district to offer salaries comparable to those offered by the Fallbrook Union HSD since the blended revenue limit for the new district would not be augmented for differences in salaries and benefits.

At the close of the public hearing, the County Committee voted 3-2 to recommend approval of the unification proposal, and voted unanimously to recommend the entire Fallbrook Union HSD as the election area.

The California Department of Education (CDE) concludes that the increase in facilities costs condition is met (contrary to the County Committee determination) and concurs with the County Committee determination that the fiscal management and status condition is not met. On these two conditions, the CDE notes the following:

- CDE's School Facilities Planning Division (SFPD) in its report (Attachment 5) points out that the Fallbrook Union HSD could adjust its inventory of 33 portables, which would eliminate duplicative seats, provide the additional benefit of reclaiming field and hard-court areas, and reduce the size and scope of any new high school.

- CDE's latest analysis notes that Fallbrook Union HSD's fiscal health has worsened due to the ongoing state fiscal crisis, declining enrollment, and increases in annual operating costs. Currently, the Fallbrook Union HSD is deficit spending, and the San Diego COE states that the district could become insolvent in 2013–14 if the deficit spending continues.

3.0 REASONS FOR UNIFICATION

The following reasons for creating the proposed unified district are cited in the petition (Attachment 7):

- A desire to establish a unified school district that will be responsive to the unique needs of their rural and geographically isolated student population.
- A desire to provide a coordinated, sequential preschool through twelfth grade educational program.
- A belief that unification will increase collaboration between elementary staff, secondary staff, and the community in the pursuit of educational goals.
- A belief that unification will provide for more effective use of district resources.
- A belief that unification is necessary for the provision of safe and effective health care, child nutrition, and special services.
- A desire for a single board of trustees and administration to determine educational expectations and accountability.

4.0 POSITIONS OF SCHOOL DISTRICTS

4.1 Fallbrook Union HSD

The Fallbrook Union HSD governing board is not expressing opposition to the proposed unification at this time.

4.2 Bonsall Union ESD

The Bonsall Union ESD supports the proposal, citing a desire for a community high school and a coordinated elementary and high school program.

5.0 *EC* SECTION 35753 CONDITIONS

The California State Board of Education (SBE) may approve a proposal for the reorganization of districts if the SBE has determined the proposal substantially meets the conditions in *EC* Section 35753. Those conditions are further clarified by *California Code of Regulations,* Title 5 (5 *CCR*), Section 18573.

The SBE also may approve a proposal if it determines that all *EC* Section 35753(a) conditions are **not** substantially met, but subsequently "determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals." (*EC* Section 35753[b]).

For its analysis of the current proposal, the CDE reviewed the administrative record of the County Committee's actions provided by the San Diego County Office of Education, including the following:

- Petition for the proposed unification.
- "A Report on the Study of County of Formation of the Bonsall Unified School District, December 2007, for the San Diego County Committee on School District Organization" (County Committee Study).
- "Bonsall Union School District Area Unification Proposal Educational Program and Facilities Plan," February 22, 2012.
- Minutes of County Committee meetings.
- Miscellaneous related documents.

CDE findings and conclusions regarding the required conditions in *EC* 35753 and 5 *CCR* Section 18573 follow.

5.1 *EC* Section 35753(a)(1): The reorganized districts will be adequate in terms of number of pupils enrolled.

Standard of Review

It is the intent of the SBE that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: elementary district, 901; high school district, 301; unified district, 1,501 (5 *CCR* Section 18573[a][1][A]).

County Committee Evaluation/Vote

The County Committee Study concludes that the reorganization meets the district size condition with projected enrollments in 2008 of 2,452 for the new unified district and 2,495 for the remaining Fallbrook Union HSD. The County Committee voted unanimously that the unification proposal substantially meets Condition 1.

Findings/Conclusion

With the transfer of approximately 526 Bonsall area ninth through twelfth grade (9–12) students, the new unified district would have an enrollment of 2,493 (as shown in the following table). The remaining Fallbrook Union HSD would have an enrollment of 2,341. The table depicts the 2011–12 California Longitudinal Pupil Achievement Data System (CALPADS) enrollment for all four districts, as well as the combined enrollment for the proposed unified district.

Current Enrollments in Affected Districts

District	2011–12 CALPADS Enrollment
Bonsall Union ESD	1,967
Fallbrook Union HSD	2,867
Fallbrook Union ESD	5,816
Vallecitos ESD	375
Proposed Unified School District (Enrollment from Bonsall Union ESD and that area of Fallbrook Union HSD)	2,493

The CDE concludes that this condition is substantially met as the projected enrollment on the effective date of the reorganization exceeds the required 1,501 for unified districts and 301 for high school districts.

5.2 *EC* Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.

Standard of Review

The following criteria from 5 *CCR* Section 18573(a)(2) should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

County Committee Evaluation/Vote

As summarized from the geographical description provided in the County Committee Study, the Bonsall Union ESD is located in an unincorporated area of northern San Diego County and extends from the eastern portion of the city of Oceanside to just west of Valley Center. The 13.5 square-mile core Bonsall area is five to seven miles from Fallbrook High School and covers about 19 percent of the Bonsall Union ESD. The remaining 81 percent of the Bonsall Union ESD is in eastern Oceanside, northern Escondido, and Fallbrook communities. Observations of the County Committee Study include the following:

- With a new high school located in the core Bonsall area, high school students residing in Oceanside and east of Interstate 15 would have a shorter commute than they currently have to Fallbrook High School.

- Shopping and social activities mainly occur in three areas of the Bonsall Union ESD: (1) Bonsall Union ESD core area residents patronize the small retailers and restaurants of that area; (2) Bonsall Union ESD western area residents generally shop and have social ties in Fallbrook, Vista, and Oceanside; and (3) Bonsall Union ESD eastern area residents shop and have social ties mostly in Escondido, Fallbrook, and Temecula.

The County Committee Study concludes that this condition is substantially met, stating that residents of Bonsall Union ESD's western and core areas would be better served by a comprehensive high school located in that area, and community identity would be enhanced if the school also serves as a community center.

According to the Bonsall Union ESD, the school system as well as local organizations (e.g., the Bonsall community center, chamber of commerce, rotary club, women's club) contribute to the unique identity and character of the Bonsall area.

The County Committee unanimously voted that the unification proposal substantially meets Condition 2.

Findings/Conclusion

With three elementary schools and one middle school, the Bonsall Union ESD serves an 88 square mile rural area encompassing seven zip codes. The Bonsall West Elementary School community is located in the western section of the district in Oceanside. The Bonsall Elementary School community is located in the central and eastern section of the district in Bonsall. The Vivian Banks Charter School community is located on the

Pala Indian Reservation. The Sullivan Middle School community is located throughout the entire 88 square mile area.

Though geographically expansive, the CDE concludes that the districts would be organized on the basis of substantial community identity, and this condition is substantially met. The commute to a high school in the core Bonsall area would be shorter than the commute to Fallbrook High School, and a Bonsall area high school could also serve as a community center. In addition, the community identity of the existing component elementary districts would be maintained since the boundaries of the proposed Bonsall Unified SD would correspond to the existing Bonsall Union ESD, and the boundaries of the Fallbrook Union ESD and the Vallecitos ESD would not change.

5.3 *EC* Section 35753(a)(3): The proposal will result in an equitable division of property and facilities of the original district or districts.

Standard of Review

To determine whether an equitable division of property and facilities will occur, the CDE reviews proposals for compliance with the provisions of *EC* sections 35560 and 35564 and determines which of the criteria authorized in *EC* Section 35736 shall be applied. The CDE also ascertains that the affected districts and county office of education are prepared to appoint the committee described in *EC* Section 35565 to settle disputes arising from such division of property (5 *CCR* Section 18573[a][3]).

County Committee Evaluation/Vote

The County Committee Study provides an example of how property, facilities, and liabilities, including bonded indebtedness, may be divided. In addition, the County Committee Study states that compliance with this condition requires a voting area that includes the entire Fallbrook Union HSD. Following is a summary of the example for division of property from this Study:

(a) Real Property and Personal Property Normally Situated thereat (Operating School Sites)

The County Committee Study reports that the Fallbrook Union HSD has no school sites or facilities within the territory of the Bonsall Union ESD, but owns a 50-acre undeveloped parcel of land (Gird Road property) located in the Bonsall Union ESD. Because the parcel is undeveloped and has never been a school site, this study recommends the districts negotiate the value and disposition of the parcel. (At a meeting December 12, 2011, the Fallbrook Union HSD Board of Trustees declared the Gird Road property surplus.)

(b) Personal Property, Funds, and Obligations

The County Committee Study offers valuation and payment options (appraisals, cash balances or future revenues as payments) and a methodology for resolution of disputes (binding arbitration) for the division of personal property used district-wide by the Fallbrook Union HSD.

Using proportionate average daily attendance, the County Committee Study allocated approximately 17 percent of Fallbrook Union HSD's operational funds and liabilities (e.g., General Fund balances and compensated absences) to the proposed unified district.

Using assessed valuation (AV), the County Committee Study allocated 32 percent of the high school district's AV-based fund balances and liabilities (e.g., Bond Interest Fund balance and accrued interest) to the proposed unified district.

(c) Student Body Funds

A share of student body funds at Fallbrook Union HSD schools would transfer to the proposed unified school district. The share would correspond to the proportion of high school students transferring to the proposed unified district as stated in the County Committee Study.

(d) Bonded Indebtedness

The County Committee Study states that the Fallbrook Union HSD had $21 million in general obligation (GO) bond debt for modernization of Fallbrook High School. Because the Fallbrook Union HSD has no public school sites or facilities located within the boundaries of the proposed unified district, Bonsall Union ESD property owners would drop any liability for Fallbrook Union HSD bonded indebtedness, according to the Study.

At the time of the County Committee Study, the Bonsall Union ESD had GO bond debt of $8.9 million (increasing to $16 million by June 30, 2011). Liability for this bonded indebtedness would remain with the property owners in the existing Bonsall Union ESD if the unification proposal is approved.

The County Committee Study estimates that the reorganization would remove approximately 32 percent of Fallbrook Union HSD's AV and result in a 48 percent increase in annual property tax payments for bonded indebtedness in the remaining district. In a letter to the County Committee dated October 15, 2007, the Bonsall

Union ESD governing board described the 48 percent increase as "an alarmist figure" and suggested the use of a dollar amount so taxpayers could better understand the magnitude of the estimated tax payment.

In the opinion of the County Committee Study, the projected increase in tax payments in the remaining Fallbrook Union HSD would be significant and would have a negative effect on Fallbrook Union Elementary SD's and Vallecitos ESD's ability to pass their own bonds to construct or renovate facilities in their respective districts. For these reasons, the County Committee Study concludes the reorganization would meet the property division condition only if the election area includes the entire Fallbrook Union HSD.

The County Committee voted 4-1 that this condition is substantially met (subsequently recommending that the SBE expand the election area to include the entire Fallbrook Union HSD).

Findings/Conclusion

Existing provisions of the *EC* may be used to achieve an equitable distribution of relevant property, funds, and obligations of the Fallbrook Union HSD. The CDE recommends the following regarding this distribution:

(a) All assets and liabilities of the Fallbrook Union HSD shall be divided based on the proportionate ADA of the high school students residing in the areas of the two districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* Section 35736).

(b) Student body property, funds, and obligations shall be divided proportionately, each share not to exceed an amount equal to the ratio of the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* 35564).

(c) Disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed (*EC* 35565).

EC Section 35575 provides for a default reallocation of Fallbrook Union HSD's bonded indebtedness if the proposed unification is approved. The following two conditions would occur under this default reallocation:

- The entire AV of the Bonsall Union ESD would be removed from the AV total of the Fallbrook Union HSD—resulting in a corresponding reduction in the bonding capacity of the Fallbrook Union HSD (bonding capacity is 1.25 percent of the AV for the Fallbrook Union HSD [*EC* Section 15102]). Based on 2011–12 AV data from county of San Diego Auditor/Controller reports, the Bonsall Union ESD contains 36 percent of the total AV of the Fallbrook Union HSD. Removal of this AV would result in a corresponding 36 percent reduction in the bonding capacity of the Fallbrook Union HSD.

- The Bonsall Union ESD would drop all existing liability for the bonded indebtedness of the Fallbrook Union HSD since no Fallbrook Union HSD facilities are located within the boundaries of the Bonsall Union ESD (*EC* Section 35575). As a result, property owners in the remaining high school district would absorb the Bonsall area liability, and their tax rate for the district's bonded indebtedness would increase proportionately.

CDE staff considered both of the above issues and determined the following:

- The reorganization would leave the high school district with about $50 million in unused bonding capacity when the outstanding principal shown in the following table is subtracted from the projected capacity remaining after unification.

Fallbrook Union HSD Bonded Indebtedness and AV (in millions)

Authorization Dates*	**Issued**	**Unissued**	**Outstanding Principal June 30, 2011**
6/07/94 Election ($23) 5/12/98 Refunding ($26.2)	$26.2	$0	$14.3
	AV	**1.25% of AV (Bond Cap)**	
Before Unification	$8,025	$100	
After Unification (36% AV reduction)	$5,165	$65	

* Note: 1994—$23 million for modernization of Fallbrook High School. 1998—$26.2 million to refund the outstanding principal of the 1994 measure ($20.7 million in current interest bonds and $5.5 million in capital appreciation bonds).

Sources: County of San Diego Auditor and Controller Reports, fiscal year 2011-12; Fallbrook Union HSD Audit Report for the Fiscal Year Ended June 30, 2011.

The reorganization would not reduce Fallbrook Union HSD's bonding capacity below the level of outstanding debt, but the reduction of more than one-third of the AV might be a negative factor to the extent that it deters voters in the remaining high school district (or in the component elementary districts) from approving additional funding for facilities or improvements.

- The County Committee Study estimated that the proposed unification would cause tax payments for high school bonds to increase by 48 percentage points. Currently, the payments for high school bonds are relatively small ($26.34 per $100,000 of AV annually). Applying the projected 48 percent increase to fiscal year 2011–12 hypothetical tax bills for properties valued at $100,000 and $400,000, the payments for high school bonds increase from $26.34 and $105.36, respectively, to $38.93 and $155.73 (approximate increases annually of about $12.59 or monthly of about $1.05 per $100,000 AV).

  Therefore, in the opinion of CDE, the dollar amount of the annual tax increase ($12.59 per $100,000 AV) is not considered to be substantial.

Given the above considerations, the CDE concludes that the proposal substantially meets this condition. However, the CDE believes even greater equity can be achieved if the property owners in the Bonsall Union ESD retain their proportionate level of liability for Fallbrook Union HSD's existing bonded indebtedness—the SBE may replace the *EC's* default reallocation of Fallbrook Union HSD's bonded indebtedness with an alternate provision pursuant to *EC* Section 35738. The following paragraphs describe the rationale for the CDE recommendation for an alternate provision to require the property owners in the Bonsall Union ESD to retain existing liability for bonded indebtedness.

Plans considered by the governing board of the Bonsall Union ESD envision a smaller academy high school and "seeks to offer an attractive option to the large, comprehensive, or magnet high schools nearby" (Attachment 9). As such, this academy will not offer comprehensive sports programs or a number of other extra-curricular programs that attract high school students. Therefore, it is very likely that a substantial number of high school-age students will seek other options for high school. The primary alternatives will be the schools these students currently attend, including Fallbrook High School.

Moreover, a new Bonsall unified school district likely will require a four to five year period to provide high school education to all its students, offering ninth grade in the first or second year and adding an additional grade level in each of the subsequent three years.

Given these two considerations, Fallbrook Union HSD facilities likely will continue to be used by students from the Bonsall community.

If the SBE desires greater equity in the division of bonded indebtedness than the provisions of *EC* Section 35576 provide, the SBE may approve the CDE recommendation to add a provision to the plans and recommendations, pursuant to *EC* 35738, stipulating that property owners in the Bonsall Union ESD retain their proportionate level of liability for Fallbrook Union HSD's existing bonded indebtedness subsequent to the formation of the proposed unified district. If such a provision is included in the plans and recommendations of the unification proposal, the concern expressed in the County Committee Study regarding the removal of almost twice as much AV (32 percent) than ADA (17 percent) from the Fallbrook Union HSD would be mitigated.

(SBE legal counsel proposed the addition to plans and recommendations of a similar *EC* Section 35768 provision in another case [Attachment 3]. However, that case involved a greater percent reduction [45] in AV; and [unlike the Fallbrook Union HSD] the remaining district in that case was not projected to have available bonding capacity after reorganization.)

5.4 *EC* Section 35753(a)(4): The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

Standard of Review

The definition of "segregation" is provided by the California Supreme Court in its decision in *Crawford v. Board of Education of the City of Los Angeles* (1976) 17 Cal.3d 280 (*Crawford*).[1] The court defined segregated schools as those "in which the minority student enrollment is so disproportionate as realistically to isolate minority students from other students and thus deprive minority students of an integrated education experience." (*Crawford* at 303). The SBE has adopted regulations that specify the factors to be considered in determining whether the new districts resulting from a unification will promote racial or ethnic discrimination or segregation (5 *CCR* Section 18573[a][4]). These regulations provide:

[1] It has been argued that neither county committees nor the SBE need address the provisions of *EC* Section 35753(a)(4), in light of the voters' adoption of California Constitution Article I, Section 31 (Proposition 209). The subject of this ballot measure is affirmative action, and it prohibits the granting of preferential treatment, as well as discrimination, in education to any group on the basis of race. Article III, Section 3.5, provides that an administrative agency (such as the SBE) has no power to declare unconstitutional or refuse to enforce any statute on the grounds of unconstitutionality in the absence of an appellate court decision to that effect. There is no appellate court ruling declaring *EC* Section 35753(a)(4) unconstitutional. Accordingly, the SBE is required to address *EC* Section 35753(a)(4).

"To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

(A) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.

(B) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.

(C) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.

(D) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the County of integration of the affected schools.

(E) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause."

The definition of segregation has both quantitative and qualitative components. The quantitative component is "so disproportionate as realistically to isolate minority students" and the qualitative component is to "deprive minority students of an integrated educational experience." In determining whether there is segregation, set racial or ethnic percentages are not established—either by judicial decree, statute, or regulation. Rather, the determination requires consideration of the various factors set forth in the applicable regulation.

County Committee Evaluation/Vote

The following tables present summaries of the 2006–07 ethnic enrollment data from the County Committee Study:

2006–07 Ethnic Enrollments in Affected Districts

	Minority Students	White Students
Fallbrook Union HSD	1,516 (51.5%)	1,430 (48.5%)
Fallbrook Union HSD students in Bonsall Union ESD area	280 (54.5%)	234 (45.5%)
Bonsall Union ESD	905 (49.6%)	919 (50.4%)

Source: California Basic Educational Data System (CBEDS) and County Committee Study.

The data depicted in the above table from the County Committee Study shows that 51.5 percent of the students enrolled in the Fallbrook Union HSD in 2006–07 were minority students, and 54.5 percent of the high school students who resided within the area of the Bonsall Union ESD were minority students. In the Bonsall Union ESD, the K–8 student enrollment in 2006–07 was 49.6 percent minority and 50.4 percent white.

The following table compares the percent of minority students in both districts before the proposed unification with the percent after the unification as presented in the County Committee Study.

2006–07 Percent Minority Students in Affected Districts

	Minority Students	White Students
Fallbrook Union HSD	1,516 (48.9%)	1,430 (46.1%)
Bonsall Union ESD	905 (49.5%)	919 (50.2%)
After Unification		
Fallbrook Union HSD	1,236 (47.8%)	1,196 (49.2%)
Bonsall Unified SD	1,185 (50.7%)	1,153 (49.3%)

Source: CBEDS and County Committee Study

The previous table shows minority student enrollment changes by roughly 1 percent as a result of the proposed unification.

The County Committee voted unanimously that this condition is substantially met.

Findings/Conclusion

Attachment 4 is the full report prepared by the CDE to analyze the racial/ethnic effect of the unification in the affected districts. The CDE report (using 2011–12 CALPADS data) shows the Fallbrook Union HSD has a minority student population of 64.3 percent. Transferring approximately 526 students from the Fallbrook Union HSD to the

proposed Bonsall Unified SD would increase the minority student population by 2.3 percentage points (from 64.3 to 66.6 percent) in the Fallbrook Union HSD and 1.4 percentage points (from 47.9 to 49.3 percent) in the new unified district.

Based on the attached analysis, the CDE concludes that both districts would have minority enrollments that are "proportionate" and the proposed unification substantially meets the condition that the reorganization will preserve each district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

5.5 *EC* Section 35753(a)(5): Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Standard of Review

EC sections 35735 through 35735.1 mandate a method of computing revenue limits without regard to this criterion. Although the estimated revenue limit is considered in this section, only potential costs to the state other than those mandated by *EC* sections 35735 through 35735.1 are used to analyze the proposal for compliance with this criterion.

County Committee Evaluation/Vote

After making the following statements, the County Committee Study concluded that this condition is substantially met:

- Pursuant to *EC* Section 35735.1, the new district blended revenue limit will not be augmented for differences in certificated and classified salaries and benefits, which, the County Committee Study estimates, could leave the new district needing more than $500 per ADA to offer salaries and benefits comparable to those offered by the Fallbrook Union HSD.

- State costs for school facilities could increase as a result of forming the new district.

- The reorganization may require a redistribution of categorical funds and materials.

- Transportation costs for students in grades 9–12 in both districts may be reduced

The County Committee voted unanimously that this condition is substantially met.

Findings/Conclusion

Based on 2011–12 data from the San Diego COE, the proposed Bonsall Unified SD's estimated base revenue limit per ADA is $6,495. The $6,495 was calculated by combining the Fallbrook Union HSD and Bonsall Union ESD revenue limit funding for the affected students. (The proposed district is not eligible for an increase to the blended revenue limit because the Fallbrook Union HSD—with higher average salaries and benefits—would not supply at least 25 percent of the ADA that will be transferred to the new district.) If the proposed unified district becomes effective for all purposes, the revenue limit will be calculated by staff in the CDE Principal Apportionment Unit using current information submitted by the San Diego COE using second prior fiscal year data. Assuming a July 1, 2013, effective date, data from the 2011–12 second principal apportionment period would be used. As stated previously, increases in revenue limit funding due to reorganization are not considered as increases in costs to the state since the funding is statutorily mandated and capped.

State costs for transportation, categorical programs, regular programs, and special education should not be affected significantly by the proposed reorganization since, typically, funding for these programs follows the students.

The CDE agrees with the conclusion of the County Committee Study and the County Committee vote that the proposal substantially meets this condition.

5.6 *EC* Section 35753(a)(6): The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

Standard of Review

The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition, and the California Department of Education shall describe the district-wide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition (5 *CCR* Section 18573[a][5]).

County Committee Evaluation/Vote

The County Committee Study indicates the proposal will not significantly affect student academic levels because of the relatively small difference in the 2006 California Academic Performance Index (API) scores among the component districts (Bonsall Union, 789; Fallbrook Union Elementary,

774; Vallecitos, 742). The County Committee Study gives the following reasons for concluding this condition would not be substantially met:

- The new district (without an increase to the blended revenue limit) might not be able to offer salaries that would attract high school teachers with multiple subject credentials that a small high school would need.

- With the transfer of 526 students from the Fallbrook Union HSD, neither the remaining or new district would be able to appropriately operate advanced placement and other special programs.

During County Committee deliberations on this matter, Bonsall Union ESD trustees presented information on a plan to offer programs in the new district, which uses technology and partners with other entities (local community college and “even Fallbrook”).

Also, Bonsall Union ESD trustees maintain that the County Committee Study assumptions about salaries and benefits are incorrect, stating that 2006–07 negotiations resulted in employee salaries and benefits that are competitive with those offered in the Fallbrook Union HSD.

The County Committee voted 3-2 that this condition is substantially met.

Findings/Conclusion

The CDE concurs with the County Committee vote that this condition is substantially met. While the Fallbrook Union HSD would endure some disruption to its educational program, it would have a four to five-year transition period to adjust to losing all (or a portion of) 526 students.

The CDE updated the 2006 data provided in the County Committee Study. The following sections incorporate that updated data as well as reviews of other information.

(a) Students at school level

The transfer of approximately 526 students primarily affects the enrollment at Fallbrook High School (the only comprehensive high school in the 350-square mile Fallbrook Union HSD).

(b) Performance Indicators

The API provides a means to compare the performance of schools and districts in the state. Under the No Child Left Behind (NCLB) Act, schools must meet certain criteria to make Adequate Yearly Progress (AYP).

A summary of these performance indicators is incorporated into the following table for appropriate schools in the two affected districts.

Performance Indicators

	2011 API Growth	Met API Growth Target?	Met 2011 AYP Criteria?
Fallbrook Union HSD	740	N/A	Yes
Fallbrook High	750	No	Yes
Bonsall Union ESD	877	N/A	No
Bonsall Elementary	896	Yes	Yes
Bonsall West Elementary	922	Yes	No
Norm Sullivan Middle	851	Yes	No
Vivian Banks Charter	768*	No	No

"*" means this API is calculated for a small school. "APIs based on small numbers of students are less reliable and therefore should be carefully interpreted."
Source: CDE Accountability Progress Reporting

(c) Program Improvement

As noted in the following table, the Fallbrook Union HSD is in its third year of Program Improvement (PI), and Fallbrook Union High School is in the second year of PI.

2011 Program Improvement Status

	In PI?	PI Year
Fallbrook Union HSD	Yes	Year 3
Fallbrook High	Yes	Year 2
Bonsall Union ESD	No	N/A
Bonsall Elementary	Not Title 1	N/A
Bonsall West Elementary	Not Title 1	N/A
Norm Sullivan Middle	Yes	Year 1
Vivian Banks Charter	No	N/A

Source: CDE Accountability Progress Reporting

As a PI district, the Fallbrook Union HSD must comply with specific corrective actions, which include student transfer options to non-PI schools, either within or outside the district. The Bonsall Union ESD is not in PI status, and the new district—having no historical performance data—would not be in PI status.

(d) English Learner Students

The state Language Census collects the number of English Learner (EL) students and other related data. The following table

aggregates the 2010–11 Language Census data for schools in the affected districts and projects the effect of the proposed unification on the EL student population.

2010–11 English Learner Students by School District

District	Student Population	EL Student Population	% EL Students
Bonsall Union ESD	2,005	366	18.3%
Fallbrook Union HSD	2,976	471	15.8%
After Unification*			
Bonsall Unified SD	2,531	445	17.6%
Fallbrook Union HSD	2,450	392	16.0%

* Numbers of transferred EL high school students are based on the Bonsall Union ESD's existing percentage of K–8 EL students from all three component elementary districts in Fallbrook Union HSD (16.7%).
Source: CDE Language Census

Based on the estimates in the previous table, the reorganization would remove 79 EL students from the Fallbrook Union HSD and place them in the proposed Bonsall Unified SD. This loss of 79 EL students, in conjunction with the loss of 526 total secondary students, increases the percentage of EL students in the Fallbrook Union HSD from 15.8 percent to 16.0 percent.

(e) Free or Reduced Price Meals Program

The Free or Reduced Price Meals (FRPM) data includes information on the number of students enrolled in FRPM programs. The following table presents this 2009–10 information for the schools in the affected districts and projects the effect of the proposed unification on these student populations.

Students in FRPM Program by District

District	Percent of Students in FRPM Program
Bonsall Union ESD	34.5%
Fallbrook Union HSD	48.7%
After Unification*	
Bonsall Unified SD	34.5%
Fallbrook Union HSD	50.4%

* Transferred high school students based on percentage of appropriate student population in Bonsall Union ESD.
Source: CDE FRPM program

Based on the estimates in the above table, the proposed unification would remove 199 students in the FRPM Program from the Fallbrook Union HSD and place them in the Bonsall Unified SD. The loss of FRPM students, in conjunction with the overall loss of

526 secondary students, would increase the percent of Fallbrook Union HSD students in the FRPM Program from 48.7 percent to 50.4 percent.

(f) Advanced Placement Courses

The County Committee Study expressed concerns that the transfer of 526 students might leave both reorganized districts without enough students to operate limited-size programs such as Advanced Placement (AP) courses.

The following tables display the (1) number of AP courses that Fallbrook High School offered by subject; (2) the percent of the school's students enrolled in all AP courses; and (3) the estimated number of students that may be affected by the proposed unification.

AP Courses (2010–11), Fallbrook High School (enrollment 2,737)

Subject	Number of Courses Offered*	% of Students in AP Courses
Computer Science	0	
English	4	
Fine/Performing Arts	3	
Foreign Language	4	
Mathematics	2	
Science	2	
Social Science	4	
All Courses	**19**	**2.8% (77 students)**

Note: Shaded cells do not require data.
**"Where there are students course enrollments."*
Source: School Accountability Report Card (SARC)

AP Courses Projected
Fallbrook High School After Reorganization (enrollment 2,211)

Subject	Number of Courses Offered	Percent of Students In AP Courses	Students to New District	Remaining Fallbrook Students
Computer Science	0			
English	4			
Fine/Performing Arts	3			
Foreign Language	4			
Mathematics	2			
Science	2			
Social Science	4			
All Courses	**19**	**2.8%**	**15**	**62**

Based on data presented in these tables, the reorganization should not significantly affect Fallbrook Union HSD's AP course offerings given the limited participation in AP courses and the transition time (up to five years) until the new district educates all its students.

In addition, other means exist for the proposed new district to provide specialized programs, which include (1) collaboration with Palomar College to provide a "2 plus 2 program" that would enable high school students to graduate with up to two years of college credit; (2) differentiated instruction for various groupings of students; and (3) innovative uses of technology to extend learning time or provide specific courses ("Bonsall Union School District Area Unification Proposal Educational Program and Facilities Plan," Attachment 9).

The CDE concludes that this condition is substantially met.

5.7 *EC* Section 35753(a)(7): Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

County Committee Evaluation/Vote

In 2006, the Fallbrook Union HSD forecast that over the next 20 years new development may generate 279 students in the petition area and 268 in the remaining Fallbrook Union HSD, according to the County Committee Study. Of the 526 students that would transfer from the Fallbrook Union HSD, 268 would be replaced by students from new development, leaving 258 unused classroom seats in the Fallbrook Union HSD, the County Committee Study estimates. Thus, the Study uses the cost to construct a 600-student high school ($41,667 per seat) in the proposed unified school district, plus the cost of 258 unused classroom seats in the remaining Fallbrook Union HSD to estimate the facilities costs displayed below:

Facilities Costs Attributable to Reorganization

600-student high school ($41,667 per seat)	$25,000,000
258 duplicate classroom seats	10,750,086
Total	$35,750,086

Source: County Committee Study

The County Committee Study concluded that this condition was not substantially met because of the projected number of unused classroom seats in the remaining Fallbrook Union HSD, stating that the County Committee must determine whether the school facility costs for duplicate

seats costing approximately $10.7 million are “insignificant and otherwise incidental to this reorganization.”

The petitioners testified that they planned to provide an alternative to the traditional high school, a new model (“Integrated Learning Environment,” Attachment 9) that builds on the education Bonsall students receive. Testimony also included information on how empty classrooms and buildings in the existing elementary district could be converted for high school use.

The County Committee voted 3–2 that the facilities condition is not substantially met.

Findings/Conclusion

The SFPD provides support to the CDE review of reorganization proposals. Based on analysis of information available, the SFPD determined the following (Attachment 5):

- An adjustment to Fallbrook Union HSD’s inventory of 33 portables over the next 20 years would offset duplicate seat costs and also provide the additional benefit of reclaiming field and hard-court areas occupied by portable classrooms.

- The size and cost of an additional Fallbrook high school (August 6, 2007, minutes) could be reduced if the proposed Bonsall Unified SD provides facilities for the 526 students currently attending Fallbrook Union HSD schools plus the 279 students projected from potential growth in the Bonsall area over the next 20 years.

The SFPD concludes that the cost to provide facilities is incidental and insignificant since (1) the creation of duplicative seats is incidental to the creation of a new unified school district in which a high school is not located; and (2) the cost of duplicative seats in this case is offset by the ability of the Fallbrook Union HSD to both reduce its portable inventory and reduce the scope of proposed new high school facilities.

In addition, the Bonsall Union ESD’s proposal to convert an existing middle school site into a high school site over a four-year period also controls facilities costs (Attachment 6–“Bonsall Union School District Projected High School Site Specifications, February 22, 2010”).

The CDE agrees with the conclusion of the SFPD that this condition is substantially met.

5.8 *EC* Section 35753(a)(8): The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

County Committee Evaluation/Vote

The County Committee Study recommended "that the County Committee deem this condition substantially met" since analysis of property values in the area indicates reorganization would not significantly impact property values in any section of the Fallbrook Union HSD and the proposed Bonsall Unified SD."

The County Committee voted unanimously (5-0) that this condition is substantially met.

Findings/Conclusion

No evidence was presented during the County Committee proceedings to indicate that the proposed formation of a Bonsall Unified SD would increase property values in the petition area. Nor is there any evidence from which it can be discerned that an increase in property values could be the primary motivation for the proposed unification. The CDE concludes this condition is substantially met.

5.9 *EC* Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

County Committee Evaluation/Vote

The County Committee Study concludes this condition is not substantially met, while indicating that both districts have sound fiscal management and would likely survive the reorganization. The County Committee Study provides the following reasons for the Study conclusion that this condition is not met:

- The revenue limit for the proposed Bonsall Unified SD would be a blended revenue limit with no increases for salary or benefits of classified and certificated employees. The County Committee Study suggests that future employees of the district may have expectations of receiving higher salaries and benefits than the blended revenue limit would allow.

- To offer a salary and benefit package comparable to Fallbrook Union HSD's, the new district would have to expend more funds than it receives.

Bonsall Union ESD's governing board disagreed with the County Committee Study assumptions about salaries and benefits. The trustees indicated that 2006–07 salary negotiations resulted in salaries and benefits that are competitive with Fallbrook Union HSD's employee salaries and benefits. The trustees further claim that they would not make decisions that would be as fiscally irresponsible as those presented in the County Committee Study.

The County Committee considered the effects of the proposal and voted 3-2 that this condition is not substantially met.

Findings/Conclusion

July 2011 Findings

The CDE's July 2011 report to the SBE indicates that this condition is substantially met, contrary to the conclusion of the County Committee Study. The County Committee Study indicated it would be very costly for the new district to offer salary and benefit packages commensurate with the higher salary and benefit packages of the Fallbrook Union HSD, and for that reason concluded the condition was not met. The CDE determined that the disparity in certificated staff salaries had narrowed since the County Committee Study was completed in 2007. Fallbrook Union HSD's average paid teacher salaries were about 12 percent higher than salaries of the Bonsall Union ESD, but. the lowest and highest salaries on the schedules of both districts were comparable. The CDE concluded that the certificated salary schedules of the proposed Bonsall Unified SD would be a product of negotiations between the district and its bargaining units.

Consistent with the County Committee Study, the CDE found that both districts appeared to be fiscally healthy. The Bonsall Union ESD projected reserves in excess of $3.8 million, a reserve level of about 28 percent for 2010–11, which is substantially above its recommended 3 percent level. The San Diego COE projected a reserve level of $2.5 million for the Fallbrook Union HSD, which represents a 9 percent reserve level for 2010–11, well above the district's recommended 3 percent level. Projections indicated that both school districts would continue to exceed their recommended reserve levels through 2012–13.

May 2012 Findings (for July 2012 SBE meeting)

Current projections indicate that Fallbrook Union HSD's fiscal health has declined due to the ongoing state fiscal crisis, declining enrollment, and annual operating cost increases. The district filed a 2011–12 First Interim Report with a "qualified certification." Most recently, the Fallbrook Union HSD also submitted its 2011–12 Second Interim Report with a "qualified certification." A "qualified certification" means that the district may not meet its financial obligations for the current fiscal year or two subsequent

fiscal years. Taking into consideration anticipated state funding levels, Fallbrook Union HSD's multi-year projection shows deficit spending in the Unrestricted General Fund of $1.5 million in 2012–13 and $2.0 million in 2013–14. The San Diego COE predicts that deficit spending could lead to district insolvency in 2013–14. Cuts of approximately $1.7 million would be needed in 2013–14 to maintain a positive fund balance and meet reserve requirements. The projected cuts needed in 2013–14 represent about 10 percent of the district's Unrestricted General Fund expenditure budget.

If the reorganization is approved by the voters, the projected loss of up to 526 students will create additional fiscal challenges for the Fallbrook Union HSD.

- The loss of 526 students will result in a reduction of approximately $3 million or about 20 percent of Fallbrook Union HSD's revenue limit funding. Considering the savings from the reduction of approximately 22 teachers, annual General Fund net loss to the Fallbrook Union HSD is estimated at $1 million.

- The Fallbrook Union HSD may lose its federal Impact Aid funding. The Fallbrook Union HSD receives approximately $340,000 in Impact Aid funds annually. About one-third of this amount is derived from students who live in the proposed Bonsall Unified SD territory. These students will be removed from Fallbrook Union HSD's Impact Aid formula if the reorganization is approved by the voters. As a result, the Fallbrook Union HSD will likely become ineligible for the funding since the remaining number of students qualified to receive Impact Aid funding is projected to fall below the minimum level needed to be eligible for funding.

The Fallbrook Union HSD is projecting declining enrollment of 70 students for 2012–13 and 12 students for 2013–14. The potential loss of an additional 526 students to the new district will result in Fallbrook Union HSD losing over 20 percent of its total enrollment. Although the loss of students due to the proposed reorganization would be gradual (i.e., taking four to five years as the new unified district adds one high school grade level per year and potentially not losing all 526 students), any incremental loss of students would be problematic given the district's current financial condition.

The CDE concludes that the unification will cause a substantial negative affect on the fiscal status of Fallbrook Union HSD and this condition is not met.

6.0 COUNTY COMMITTEE *EC* SECTION 35707 REQUIREMENTS

The *EC* requires county committees to make certain recommendations and determinations and to expeditiously transmit them along with the reorganization petition to the SBE. These required recommendations and determinations are:

6.1 County Committee Recommendation for the Petition

EC Section 35706 requires county committees to recommend to the SBE approval or disapproval of a petition for unification. The County Committee voted 3-2 to recommend approval of the proposal to form the proposed Bonsall Unified SD.

6.2 Effect on School District Organization of the County

EC Section 35707 requires county committees to report to the SBE whether a proposal would adversely affect countywide school district organization. The County Committee voted 5-0 that the proposal would not adversely affect countywide school district organization.

6.3 County Committee Opinion Regarding *EC* Section 35753 Conditions

EC Section 35707 requires county committees to report to the SBE whether, in their opinion, the proposed reorganization would comply with the provisions of *EC* Section 35753. The County Committee determined that the proposed unification complies with seven of the nine conditions in *EC* Section 35753(a) by the following votes:

- Adequate Enrollment (5-0)
- Community Identity (5-0)
- Equitable Division of Property (4-1)
- Promotion of Segregation (5-0)
- Increased Costs to State (5-0)
- Educational Program (3-2)
- Increased Property Values (5-0)

The County Committee determined that the remaining two conditions are not substantially met by the following vote:

- Increased School Facilities Costs (4-1)
- Financial Effects (3-2)

7.0 RECOMMENDED AMENDMENTS TO THE PETITION

The SBE has authority under *EC* Section 35754 to amend or include certain provisions in proposals for reorganization of school districts. If the SBE approves the unification, the CDE recommends that the plans and recommendations to form a Bonsall Unified School District include the following:

7.1 Article 3 Provisions

Petitioners may include, and county committees or the SBE may add or amend, any of the appropriate provisions specified in Article 3 of the *EC*, commencing with Section 35730.

The provisions that may be added or amended include:

- **Membership of Governing Board**

  The governing board of the new district would have five members as proposed in the petition (*EC* Section 35731).

  (**Note**: The Bonsall Union ESD has submitted a request to waive certain *EC* sections [on agenda for the same SBE meeting as this item] that, if approved by the SBE, would allow the County Superintendent to appoint an interim governing board of the new district.)

- **Trustee Areas**

  The proposal for unification may include a provision for establishing trustee areas for the purpose of electing governing board members of the unified district. No provision regarding trustee areas for governing board elections is included in this proposal. Therefore, governing board members of the new district will be elected by the registered voters of the entire district (*EC* Section 35734).

- **Computation of Base Revenue Limit**

  A proposal for reorganization of school districts must include a computation of the base revenue limit per ADA for each reorganized district. CDE staff estimates a base revenue limit of $6,495 per ADA based on 2011–12 data. Should the proposed district become effective for all purposes, the revenue limit will be adjusted based on information for each affected district for the second principal apportionment period (P-2) for the fiscal year two years prior to the fiscal year in which the reorganization becomes effective (e.g., 2011–12 P-2 data for a July 1, 2013, effective date), including any adjustments for which the proposed district may be eligible (*EC* Section 35735).

- **Division of Property and Obligations**

  A proposal may include provisions for the division of property and obligations of any district whose territory is being divided among other districts. As indicated in section 5.3 of this attachment, the CDE determined that existing provisions of the *EC* may be utilized to achieve an equitable distribution of property, funds, and obligations of the Fallbrook Union HSD. The CDE recommends the following:

  (a) All assets and liabilities of the Fallbrook Union HSD shall be divided based on the proportionate ADA of high school students residing in the areas of the two affected districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* Section 35736).

  (b) Student body property, funds, and obligations shall be divided proportionately, each share not exceed an amount equal to the ratio of the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* Section 35564).

  (c) Disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed (*EC* Section 35565).

- **Method of Dividing Outstanding Bonded Indebtedness**

  No public school equipment or improvements (buildings) owned by the Fallbrook Union HSD are located within the boundaries of the proposed Bonsall Unified SD. Thus, pursuant to *EC S*ection 35576, a Bonsall Unified SD would have no responsibility for any outstanding bonded indebtedness of the Fallbrook Union HSD after reorganization. The Bonsall Union ESD had bonded indebtedness of $16 million as of June 30, 2011. Liability for Bonsall Union ESD's bonded indebtedness would remain with the property owners in the existing Bonsall Union ESD if the unification is approved.

In Section 5.3 of this attachment, the CDE discusses allocation of bond debt pursuant to the statutorily defined methods of *EC* Section 35576 and concludes that such allocation is equitable: (1) taxpayers in the new district would receive fewer benefits from the proceeds of these bonds since no high school district facilities (or any other school property) funded by the proceeds of these bonds would be in the new district; (2) the Fallbrook Union HSD would retain sufficient bonding capacity to almost double its existing bond debt if voters approved; and (3) the increase in tax payments ($12.59 per $100,000 AV annually) without Bonsall Union ESD's AV is not substantial. Therefore, the CDE finds that the statutorily defined method of allocating bonded indebtedness pursuant to *EC* Section 35576 is equitable in this case.

However, Section 5.3 of this attachment also contains a discussion of a method of dividing bonded indebtedness, pursuant to *EC* Section 35738, as an alternative to the method specified in *EC* Section 35576, for attaining even greater equity in the division of the bonded indebtedness. Under the *EC* Section 35738 alternative, Bonsall Union ESD property owners would retain their proportionate level of liability for Fallbrook Union HSD's existing bonded indebtedness that remains subsequent to the formation of the proposed unified district.

Inclusion of the alternative method of dividing bonded indebtedness is based on the premise that taxpayers in the new district would continue to receive some benefits from the proceeds of the 1994 (refunded in 1998) bond measure. The new district will not be able to offer comprehensive sports and a number of other extra-curricular programs at the small academy type high school envisioned by the Bonsall Union ESD governing board (Attachment 9). Therefore, a substantial number of Bonsall area high school-age students most likely will continue to attend Fallbrook High School. In addition, a substantial number of Bonsall area high school-age students will attend Fallbrook High School until the new district provides facilities to educate all its students.

If the SBE desires to add a provision to the plans and recommendations pursuant to *EC* Section 35738 for greater equity in the division of bonded indebtedness, the CDE recommends the following:

> The new unified school district to come from the territory of the current Bonsall Union ESD shall retain, pursuant to *EC* Section 35738, financial responsibility for its proportionate share, determined pursuant to California *Education Code* Section 35576(b)(1), of the

> outstanding bonded indebtedness of the Fallbrook Union HSD that exists as of the date of the election for the proposal to form a new Bonsall Unified SD.

Establishing the date of the election as the date for determination of the level of outstanding bonded indebtedness will allow voters for the unification proposal to have access to the most accurate information regarding obligation for the debt.

The CDE recommends that the SBE add such a provision to the plans and recommendations of the unification proposal.

7.2 Area of Election

Determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with Section 35730) that the SBE may add or amend. Also, *EC* Section 35756 indicates that, if the proposal will be sent to an election, the SBE must determine the area of election.

The plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required. If a plan does not specify the area of election, the statute specifies that "the election shall be held only in the territory proposed for reorganization" (*EC* Section 35732). By default, the Bonsall Union ESD is the election area. The SBE may alter this "default" election area, but the alterations must comply with the "Area of Election Legal Principles" below.

Area of Election Legal Principles

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992) 3 Cal. 4th 903 (the *"LAFCO"* decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the "default" area), provided there is a *rational basis* for doing so. *LAFCO* requires that we examine (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates (in this situation, the analysis examines the interests of voters in the territory of the Bonsall Union ESD and those that will remain in the Fallbrook Union HSD).

The reduced voting area must have a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewide in a manner that allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration.

In the opinion of the CDE, the reduction in bonding capacity for the high school district, the increased tax burden on property owners in the remaining portion of the high school district, and the potential negative effects on the high school district's fiscal status justify expanding the election area to include voters in the entire high school district.

Finally, discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO,* the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton*). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter, no discrimination, segregation, or racial impacts are identified. Accordingly, the *LAFCO* standard and analysis apply.

CDE Recommendation for Area of Election

Based on the information provided, the CDE concludes the proposed reorganization would have a substantial effect on voters in the remaining Fallbrook Union HSD.

As shown in Section 5.3, Fallbrook Union HSD's AV would be reduced by more than one-third, which would increase the financial responsibility of property owners in the remaining (non-Bonsall) area of the district to repay future outstanding bonded indebtedness. This shift in AV and corresponding reduction in bonding capacity could also affect voters' willingness to approve any additional funding for facilities or improvements in the remaining high school district or component elementary districts.

In addition, the 36 percent of Fallbrook Union HSD's AV that will transfer to the new unified district is more than double the 17 percent of its students that reside in the transfer area. However, the Fallbrook Union HSD, with a reduced tax base, may continue to provide educational options, sports programs, and extra-curricular activities for an undeterminable number of the students eligible to transfer since those programs will not be provided at the smaller academy high school envisioned for the new districts.

Based on the above circumstances, the CDE concurs with the recommendation of the County Committee that the SBE expand the election area to include the entire Fallbrook Union HSD.

8.0 STATE BOARD OF EDUCATION OPTIONS

The SBE has two general options to disapprove the unification and two options to approve the unification.

The SBE may deny the unification if:

- It determines that the proposed unification fails to substantially meet all nine conditions of *EC* Section 35753(a); or

- It determines that the proposed unification substantially meets all nine conditions of *EC* Section 35753(a) and decides to deny the unification on other grounds (e.g., no compelling reason exists for reorganizing the districts).

The SBE may approve the unification (and, if it does, must determine the area of election) if:

- It determines the proposed unification substantially meets all nine conditions of *EC* Section 35753(a); or

- It determines that the proposed unification fails to substantially meet all nine conditions of *EC* Section 35753(a) and determines that it is not practical or possible to apply these conditions literally and that the circumstances with respect to the proposal provide an exceptional situation sufficient to justify approval of the proposal pursuant to *EC* Section 35753(b).

  The SBE may consider, given the protracted and continuing fiscal concerns in California, that “it is not practical or possible to apply” the fiscal condition stated in *EC* Section 35753(a)(9) and discussed in Section 5.9 of this attachment. As discussed in Section 5.9, three different fiscal analyses of the proposed unification have been completed over the past five years. In the state’s uncertain and uneven fiscal climate, each of the three analyses has come to a different conclusion. Most, if not all, school districts are negatively affected by the state’s fiscal circumstances and adherence to this condition may make it difficult to approve any school district reorganization activity.

  As noted earlier, the SBE also may consider exceptional circumstances “sufficient to justify approval” of the unification proposal despite finding that one or more of the required conditions in *EC* Section 35753 are not substantially met. The CDE has identified a number of such circumstances. The primary consideration in CDE’s determination that the

fiscal condition is not substantially met for the Bonsall unification proposal is the loss students, and subsequent funding, from the Fallbrook Union HSD (see Section 5.9 of this attachment). As previously noted, the eventual loss of as many as 526 high school students would be problematic given the high school district's current financial condition. However, there are a number of mitigating circumstances to this loss of students, including the following three:

- The loss of students would be gradual, over a four to five year time period, as noted in Section 5.9 of this attachment.

- The governing board of the Bonsall Union ESD has invested a substantial effort in planning for a high school education for students within its boundaries (see Attachment 9). The governing board has planned to provide a smaller academy high school and "seeks to offer an attractive option to the large, comprehensive, or magnet high schools nearby." As such, this academy will not offer comprehensive sports programs or a number of other extra-curricular programs that attract high school students. Therefore, it is highly likely that a substantial number of high school-age students will seek other options for high school. The primary alternatives will be the schools these students currently attend—Fallbrook High School and Mission Vista High School (Vista Unified SD). This option will be conditional upon the approval of interdistrict attendance agreements between the new unified school district and the district receiving the students. The governing board of the new unified district or a governing board of a potential receiving district could deny any interdistrict attendance agreement. Such denial could be appealed to the San Diego County Board of Education.

- The Bonsall unification may actually provide more stability to the Fallbrook Union HSD than would other options (e.g., charter schools). For example, consider the Wiseburn SD in Los Angeles County. This elementary district, similar in size to the Bonsall Union ESD, has been pursuing unification for over ten years but has been thwarted for a number reasons. While the Wiseburn SD continues to pursue unification, it opened two charter high schools that enrolled almost 700 students within their first two years of operation. The community and governing board of the Bonsall Union ESD is very similar to the community and governing board of the Wiseburn SD in the long-term commitment to providing a high school education for its students.

Other exceptional circumstances unrelated to the negative financial effects of the loss of high school students from the Fallbrook Union HSD also exist, including:

- Approval of the unification proposal will help to ease the current overcrowded conditions at the Fallbrook Union HSD and allow the district to reduce its inventory of 33 portable classrooms currently at the high school site. Moreover, the high school district has been investigating constructing a new high school facility, and a Bonsall high school site would reduce the scope and costs of any new Fallbrook Union HSD school site. (See Section 5.7 of this attachment for more information.)

- A high school site in the Bonsall community will reduce the travel distance for high school students that would have to attend a high school outside the Bonsall community. (See Section 5.2 of this attachment for more information about this issue.)

- The governing board of the Fallbrook Union HSD, as the elected representatives of the high school community, currently is not expressing any opposition to the Bonsall unification proposal.

- The San Diego County Office of Education will continue to work with all districts in the county to address ongoing fiscal issues.

Approval by the SBE is discretionary and the SBE, if it approves the unification proposal, should base such approval on local educational needs or concerns pursuant to *EC* Section 35500. If the SBE approves the formation of the proposed district, it may amend or include in the proposal any of the appropriate provisions of *EC* Article 3, commencing with Section 35730. In this case, the CDE recommends that the SBE include the following items in the proposal:

- The governing board will have five members elected by the registered voters of the entire new district. As noted previously, the Bonsall Union ESD has submitted a request to waive certain *EC* sections that, if approved by the SBE, would allow the County Superintendent to appoint the first governing board of the new district.

- The estimated base revenue limit based on 2011–12 data would be $6,495 per ADA pursuant to *EC* Section 35735.

- The new unified district will be responsible for the former Bonsall Union ESD's bonded indebtedness and, pursuant to *EC* Section 35738, the former Bonsall Union ESD's proportionate share of Fallbrook Union HSD's existing bonded indebtedness, determined pursuant to *EC* Section 35576(b)(1), on the date of the election for the proposal to form a new Bonsall Unified School District pursuant to *EC* Section 35738. The remaining component elementary school districts (Fallbrook Union and Vallecitos) will continue to be responsible for their bonded indebtedness, if any, and their proportionate share of any bonded indebtedness of the Fallbrook Union HSD.

- The SBE must determine the area of election if it approves the proposal (*EC* Section 35756). As previously discussed, the CDE recommends expanding the election area to include the entire Fallbrook Union HSD.

9.0 RECOMMENDED ACTION

The CDE recommends that the SBE consider the conditions noted in Section 8.0 of this attachment, find that these conditions "provide an exceptional situation sufficient to justify approval of the proposal," and adopt the proposed resolution in Attachment 2, thereby approving the proposal to form a new unified (kindergarten through twelfth grade) school district from the Bonsall Union ESD and the corresponding portion of the Fallbrook Union HSD. The proposed resolution also includes additional provisions to the plans and recommendations of the proposal that are included in Section 7.0 of this attachment (e.g., expanding the area of election to the entire Fallbrook Union HSD).

CALIFORNIA STATE BOARD OF EDUCATION
July 2012

PROPOSED RESOLUTION

Petition to form a Bonsall Unified School District from the Bonsall Union School District and that Portion of the Fallbrook Union High School District in San Diego County

WHEREAS, the San Diego County Committee on School District Organization received a petition on or about July 11, 2007, which initiated a proposal to form a new unified school district from the Bonsall Union School District and the corresponding portion of the Fallbrook Union High School District pursuant to California *Education Code* Section 35700(a); and

WHEREAS, the San Diego County Committee on School District Organization on or about December 3, 2007, recommended approval of the proposal to form a new unified school district from the Bonsall Union School District and the corresponding portion of the Fallbrook Union High School District and transmitted said recommendation to the California State Board of Education pursuant to California *Education Code* Section 35707(a); and

WHEREAS, California *Education Code* Section 35754 gives the California State Board of Education authority to approve or disapprove a proposal to form a unified school district; therefore be it

RESOLVED, that the recommendation of the San Diego County Committee on School District Organization to form a new unified school district from the Bonsall Union School District and the corresponding portion of the Fallbrook Union High School District is hereby approved; and be it

RESOLVED further, that all assets and liabilities of the Fallbrook Union High School District shall be divided based on the proportionate average daily attendance of the high school students residing in the areas of the two districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes; and be it

RESOLVED further, that the new unified school district formed from the territory of the current Bonsall Union School District shall pay, pursuant to California *Education Code* Section 35738, the Fallbrook Union High School District a proportionate share, determined pursuant to *EC* Section 35576(b)(1), of the outstanding bonded indebtedness of the Fallbrook Union High School District that exists as of the date of the election for the proposal to form a new unified school district; and be it

RESOLVED further, that the 2013–14 base revenue limit per unit of average daily attendance for the new unified district is estimated to be $6,495 and shall be recalculated using second prior fiscal year data from the time the unification becomes effective for all purposes; and be it

RESOLVED further, that the California State Board of Education directs the county superintendent of schools to call for the election and sets the area of election to be the territory of the Fallbrook Union High School District; and be it

RESOLVED further, that the Secretary of the California State Board of Education shall notify, on behalf of said Board, the San Diego County Superintendent of Schools, the chief petitioners, and the affected school districts of the action taken by the California State Board of Education.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street. Suite 5111
Sacramento, CA 95814
Phone: (916) 319-0827
Fax: (916) 319-0175

Date : August 31, 2004

To : Members, State Board of Education

From : Karen Steentofte
Chief Counsel

Subject: September Meeting Item W-27 Reorganization/Bond Indebtedness

A reorganization proposal (Item 42) before the Board in September involves the issue of what area will be taxed to repay outstanding bonds if territory in the Centinela Valley Union High School District (Centinela) leaves to unify with the Wiseburn Elementary District. Under the proposed reorganization, approximately 40% of Centinela's assessed valuation would leave to join the new Wiseburn Unified School District. A waiver was proposed to allow the territory leaving Centinela to retain the bonded indebtedness in order to achieve a more equitable result for Centinela. This memo is to inform you that the above waiver request is not necessary to allow the existing bonded indebtedness to transfer with the territory to the Wiseburn District.

Education Code section 35575 and 35576, together provide a statutorily defined method of dividing the bonded indebtedness in a reorganization. Specifically, if the transferring territory does not include any improvements (buildings), the transferring territory leaves all the bonded indebtedness with the original school district, in this case Centinela. If the transferring territory does include improvements, the transferring territory takes either its proportionate share of the bonded indebtedness or the bonded indebtedness that covered the cost of the improvements, whichever is greater, to the new district. In this reorganization the statutory default would have the transferring territory leaving all the bonded indebtedness with Centinela as there are no improvements in the transferring territory.

Education Code section 35738, however, allows a reorganization plan to include a method of dividing the bonded indebtedness in a manner other than the statutorily defined method for the purpose of providing greater equity. Specifically, Education Code section 35738 allows for the consideration of assessed valuation when developing an equitable alternative to the statutory method of dividing the bonded indebtedness.

The overall statutory scheme for reorganizations allows the plan to define many of the terms, but defines a default resolution if the plan does not address a requisite issue, such as number of Board members or area by which they are elected. Likewise, Education Code section 35738 provides flexibility in determining how bonded indebtedness will be divided, and Education Codes sections 35575 and 35576 provide the default resolution.

While some may argue that Education Code section 35738 can only be invoked if the reorganization includes a transfer of improvements as specified in Education Code section 35576, the reference to section 35576 can be explained as recognition that section 35576 enunciates the default resolution, but is not a condition of applying section 35738. More importantly, there is no policy argument that supports the interpretation that only where an improvement is transferred can an equitable alternative be implemented. Why would the authority to devise an" alternate, more equitable, division of bonded indebtedness be given only when some minor improvement, such as a pump house, was transferred? Why would equity not also be a consideration when an improvement is not transferred, as in the case at hand?

The State Board of Education has the authority pursuant to Education Code section 35754 to amend a reorganization plan within the requirements of Article 3 (which includes section 35738). Accordingly, the Board has the authority to approve the reorganization plan permitting territory to leave Centinela with the bonded indebtedness as authorized under Education Code section 35738. A waiver of Education Code sections 35575 and 35576 is not necessary.

KS:ve

cc: Darline Robles, Los Angeles County Superintendent of Schools
Don Brann, Superintendent, Wiseburn Elementary School District
Cheryl White, Superintendent, Centinela Valley Union High School District

Racial/Ethnic Report on Formation of a New Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County

Background

The San Diego County Committee on School District Organization (County Committee) recommends that the State Board of Education (SBE) approve a citizens' petition to create a Bonsall Unified School District (SD). Specifically, the proposal would remove the territory within the boundaries of the Bonsall Union ESD from the Fallbrook Union High School District (HSD) and create the new unified school district from that territory. All students (kindergarten through twelfth [K–12] grade) residing within the Bonsall Union ESD would become students of the new unified school district.

The proposed district contains three regular schools—kindergarten through fifth grade (K–5) Bonsall Elementary and Bonsall West Elementary and sixth through eighth grade (6–8) Norm Sullivan Middle. The K–5 Vivian Banks Charter School (enrollment 110) is also located in the Bonsall Union ESD. No high school facilities are located in the proposed district, but the district would become responsible for the education of more than 500 nine through twelfth grade (9–12) students who reside within the boundaries of the Bonsall Union ESD.

Before recommending that the SBE approve the formation of a Bonsall Unified SD, the County Committee was required to determine whether the proposal substantially meets a number of conditions including the following:

> The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation (California *Education Code* [*EC*] Section 35753[a][4]).

To analyze the effects of the proposed unification, the County Committee commissioned a study: "A Report on the Study of County of Formation of the Bonsall Unified School District," December 2007 (County Committee Study). That study contained the following conclusion:

> "The maximum percent change for any one ethnic category is 3.14 percent, an amount not considered significant by any known standard," and this condition would be substantially met.

The County Committee voted unanimously (5-0) that the proposed formation of a Bonsall Unified SD substantially meets the *EC* Section 35753(a)(4) condition.

Following is a racial/ethnic report regarding the proposal to form a Bonsall Unified SD from territory of the Fallbrook Union HSD that is within its component Bonsall Union ESD, prepared by the California Department of Education (CDE).

Criteria by which the unification proposal was evaluated

Pursuant to *EC* Section 35753(a)(4), a proposal to reorganize a school district may be approved if it is substantially determined that it would not promote racial or ethnic discrimination or segregation. Section 18573 of Title 5, *California Code of Regulations* (5 *CCR*), requires five factors to be considered in determining whether a school district reorganization would promote racial or ethnic discrimination:

- The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.

- The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the affected districts.

- The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.

- The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the County of integration of the affected schools.

- The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

Each of these factors will be evaluated in light of available information, including information derived from the California Longitudinal Pupil Achievement Data System (CALPADS).

Discussion and Analysis

1. Current Racial/Ethnic Enrollment: District Level Analysis

Tables 1a and 1b depict current racial/ethnic enrollment and percentages in the Fallbrook Union HSD and Bonsall Union ESD.

Table 1a. Racial/ethnic enrollment within the existing districts

	African American	Asian	Filipino	Hispanic	Other*	White	Total**
Bonsall Union ESD	60	53	50	636	106	984	1,967
Fallbrook Union HSD	65	31	36	1,611	36	986	2,867

Source: CALPADS, 2011–12.
** "Other" includes American Indian or Alaska Native and Native Hawaiian or Pacific Islander. This will be the case for the entire report.*
***Students making no response or selecting more than one ethnic category are not included in the totals. This will be the case for the entire report.*

As indicated in Table 1a, the existing Fallbrook Union HSD enrolls 2,867 9–12 students, while the Bonsall Union ESD enrolls 1,967 K–8 students.

Table 1b. Percent Racial/Ethnic Enrollment Within Existing Districts

	African American	Asian	Filipino	Hispanic	Other	White	Total
Bonsall Union ESD	3.2%	2.8%	2.6%	33.7%	5.6 %	52.1%	100.0%
Fallbrook Union HSD	2.4%	11%	1.3%	58.3%	1.3%	35.7%	100.0%

Source: CALPADS, 2011–12.

Table 1b shows a total combined minority enrollment in the Bonsall Union ESD of 47.9 percent compared to a 52.1 percent White enrollment. The total combined minority enrollment in the Fallbrook Union HSD is 64.3 percent compared to a 35.7 percent White enrollment.

2. Minority Enrollment in Proposed Unification: District Level Analysis

Table 2 depicts racial ethnic percentages of the proposed Bonsall Unified SD and the remaining Fallbrook Union HSD.

Table 2. Minority Student Enrollment

	Minority	White
Proposed Bonsall Unified SD	49.3%	0.7%
Remaining Fallbrook Union HSD	66.6%	33.4%

Source: CALPADS, 2011–12, County Committee Study, and Fallbrook Union HSD.

The percentages in the above table update the County Committee Study information with the latest CALPADS data available and data provided by the Fallbrook Union HSD. Information considered by the County Committee during its deliberations was based on 2006–07 California Basic Educational Data System (CBEDS) data, which indicates (when Fallbrook Union Elementary SD and Vallecitos ESD data are excluded) that the Fallbrook Union HSD would have a minority student population of 50.8 percent and the new unified school district would have a minority student population of 50.7 percent after the reorganization.

3. Racial and Ethnic Enrollment: Trends and Rates of Change

The following tables depict five-year trends and rates of change in enrollment within each racial/ethnic group for the Fallbrook Union HSD and the Bonsall Union ESD.

Table 3a. Fallbrook Union HSD Historical Enrollment

	African American	Asian	Filipino	Hispanic	Other	White	Total
2007–08	62	45	33	1,405	76	1,334	2,955
2008–09	70	51	33	1,465	62	1,289	2,970
2009–10	45	45	31	1,604	50	1,063	2,838
2010–11	58	38	34	1,626	55	1,077	2,888
2011–12	65	31	36	1,611	36	986	2,765
Percent Change	4.8%	-31.1%	9.1%	14.7%	-52.6%	-26.1%	-6.4%

Source: CALPADS.

Over the past five years, the Fallbrook Union HSD had a 6.4 percent decrease in student enrollment, with the most noteworthy changes a 14.7 percent increase in the Hispanic student population and a 26.1 percent decline in the White population. All

other ethnic groups in the Fallbrook Union HSD have increased in numbers over this time period.

Table 3b. Bonsall Union ESD Historical Enrollment

	African American	Asian	Filipino	Hispanic	Other	White	Total
2007–08	49	49	42	667	132	955	1,894
2008–09	38	51	41	643	113	981	1,867
2009–10	53	49	44	621	118	1,061	1,946
2010–11	50	50	47	658	113	1,026	1,944
2011–12	60	53	50	636	106	984	1,889
Percent Change	22.4%	8.2%	19.0%	-4.6%	-19.7%	3.0%	-0.3%

Source: CALPADS.

In the Bonsall Union ESD, except for “Other” (American Indian, Alaska Native and Hawaiian Native, and Pacific Islander) and a relatively small decline in the Hispanic student population, enrollment of ethnic groups increased, while overall enrollment declined by .3 percent.

Tables 3c and 3d provide a historical look at ethnic student populations as percentages of total student enrollment for both the Fallbrook Union HSD and the Bonsall Union ESD.

Table 3c. Fallbrook Union HSD Historical Enrollment Percentages

	African American	Asian	Filipino	Hispanic	Other	White	Minority
2007–08	2.1%	1.5%	1.1%	47.5%	2.6%	45.1%	54.9%
2008–09	2.4%	1.7%	1.1%	49.3%	2.1%	43.4%	56.6%
2009–10	1.6%	1.6%	1.1%	56.5%	1.8%	37.5%	62.5%
2010–11	2.0%	1.3%	1.2%	56.3%	1.9%	37.3%	62.7%
2011–12	2.4%	1.1%	1.3%	58.3%	1.3%	35.7%	64.3%

Source: CALPADS.

In the Fallbrook Union HSD, minority student enrollment increased by 9.4 percent, while the percent of White students decreased coincidentally by 9.4 percent.

Table 3d Bonsall Union ESD Historical Enrollment Percentages

	African American	Asian	Filipino	Hispanic	Other	White	Minority
2007–08	2.6%	2.6%	2.2%	35.2%	7.0%	50.4%	49.6%
2008–09	2.0%	2.7%	2.2%	34.4%	6.1%	52.5%	47.5%
2009–10	2.7%	2.5%	2.3%	31.9%	6.1%	54.5%	45.5%
2010–11	2.6%	2.6%	2.4%	33.8%	5.8%	52.8%	47.2%
2011–12	3.2%	2.8%	2.6%	33.7%	5.6%	52.1%	47.9%

Source: CALPADS.

The Bonsall Union ESD minority enrollment decreased by 1.7 percent, while the White enrollment increased by 1.7 percent—changes considered statistically insignificant.

4. **Minority Student Enrollment: Projections**

This section projects the percentage of minority student enrollment in the Fallbrook Union HSD and the Bonsall Union ESD assuming the proposed unification does not occur. The tables in Section 3 provide the percentage growth for the racial/ethnic groups in each of the affected districts.

Table 4a. District Minority Student Enrollment Percentage Growth

	Minority	White
Bonsall Union ESD	-3.6%	3.0%
Fallbrook Union HSD	9.7%	-26.1%

Source: CALPADS.

In Table 4a, the percentages are aggregated to obtain a combined percentage growth of the minority student population in the affected districts. These percentages are based on growth over the previous five-year period.

Table 4b. Projected District Minority Student Enrollment

	Minority	White
Bonsall Union ESD	53.8%	46.3%
Fallbrook Union HSD	72.8%	27.2%

Source: CBEDS.

Table 4b depicts the projected percentages of minority students in each of the affected districts five years in the future. Percentages are calculated by multiplying the current enrollment figures by the percentage growth values from the previous five-year period.

Projections in Table 4b show that the Fallbrook Union HSD will be a 72.8 percent minority district in five years if the proposed unification does not occur, while the Bonsall Union ESD will have a minority enrollment of 53.8 percent.

5. Effects of Unification on Minority Student Enrollment

As shown in Table 2, the projected minority student enrollment in the new unified school district is 15.8 percent less than the minority student enrollment in the remaining Fallbrook Union HSD. Table 5 summarizes the effects of the proposed unification.

Table 5. Effects of Unification on District Minority Student Enrollment

	% Minority before Unification	% Minority after Unification
Bonsall Union ESD	47.9%	
Proposed Bonsall Unified SD		49.3%
Fallbrook Union HSD	64.3%	66.6%

Source: CBEDS, 2009–10 and County Committee Study.

As can be seen Table 5, no substantial changes in enrollment patterns due to the proposed unification are expected. The minority student population in the proposed new Bonsall Unified SD would increase from 47.9 percent (elementary students of area) to 49.3 percent, while the percentage of minority students in the remaining Fallbrook Union HSD would increase from 64.3 percent to 66.6 percent.

6. School Board Policies: Desegregation Plans and Programs

None of the available information indicates the proposed reorganization would have an adverse effect on the duty of the governing boards of the affected districts to adopt and implement plans or programs for equal educational opportunities. Generally, the proposal is not expected to have a statistically significant effect on racial/ethnic enrollment at the single comprehensive high school in the Fallbrook Union HSD or the existing schools in the Bonsall Union ESD—one 6–8 middle and three K–5 schools (one each in Pala [charter], Bonsall, and Oceanside).

7. Factors Affecting County of Integration

Based on the available data, the proposed reorganization would not have a significant impact on the distribution of students throughout the districts.

8. Duty to Alleviate Segregation

The governing boards of school districts have a duty to alleviate segregation, regardless of the cause. In this case, the districts are not segregated and would not become so because of the reorganization.

Summary Statement of Facts

Currently, the Fallbrook Union HSD is 64.3 percent minority, and the Bonsall Union ESD is 47.9 percent minority. The historical five-year trends show the minority student enrollment in the Fallbrook Union HSD increasing throughout the period except for the last year (2011–12), when most ethnic group enrollments declined in line with total district declining enrollment. The minority enrollment in the Bonsall Union ESD has fluctuated, declining for three years, a one-year increase, followed by a slight decrease in the fifth year (2011–12). The proposal would remove approximately 514 students—plus those with a multi or no racial/ethnic designation—from the Fallbrook Union HSD, but the new district and the remaining district would continue to have relatively the same minority student compositions they have now. The remaining Fallbrook Union HSD would be 66.6 percent minority, and the proposed unified district would be 49.3 percent minority. Without unification, the Fallbrook Union HSD is projected to be 72.8 percent minority in five years and the Bonsall Union ESD 46.3 percent minority, based on the historical five-year trends.

Conclusion

Currently, the Fallbrook Union HSD and the Bonsall Union ESD are not segregated districts based on SBE guidelines, and the percentage change in minority students in both the remaining Fallbrook Union HSD as well as in the proposed unified district are statistically insignificant.

Given the above facts, the CDE recommends that the proposal to form a Bonsall Unified SD substantially complies with *EC* Section 35753(a)(4).

California Department of Education

M e m o r a n d u m

Date: March 15, 2010

To: Scott Hannan

From: Kathleen Moore

Subject: Bonsall USD/Fallbrook UHSD Reorganization

The School Facilities Planning Division (SFPD) has reviewed the analysis prepared by the San Diego County Committee on School District Reorganization (Committee) regarding the creation of the Bonsall Unified School District (BUSD) from a portion of the Fallbrook Union High School District (FUHSD). Specifically, the SFPD has evaluated if the reorganization will create a significant increase in school facilities costs.

The creation of the new BUSD would require the BUSD to create high school capacity for the approximately 526 current high school students attending FUHSD as well as an additional 279 projected students over the next 25 years.

The Committee analysis estimates that new development within the remaining boundaries of the FUHSD would generate 268 students over the next 20 years and this would off-set part of the 526 students transferred to the BUSD. The difference between the 526 current Bonsall students and the projected future students in the remainder of the FUHS is 243 students, and the Committee report defines this as “duplicative capacity”. That is, even after 20 years, 243 seats in the FUHSD now occupied by high school students residing in the reorganization area would remain vacant. The report calculates the cost of providing the duplicative seats a $10.7 million.

The Committee report, however, does not discuss the 33 portables currently on Fallbrook High School. Thus, FUHSD may adjust its portable inventory accordingly over the next 20 years to account for the transfer of the Bonsall students. This has an additional benefit of reclaiming field and hard-court area now occupied by portable classrooms.

The minutes of the August 6, 2007, meeting of the Committee includes testimony from the FUHSD officials that a future high school is planned in the FUHSD. If the BUSD were to provide facilities for the 526 current and 279 future students in the proposed BUSD boundaries, the size and cost of a new high school in the remaining FUHSD would be reduced.

The creation of duplicative seats is incidental to the creation of a new unified school district in which a high school is not located. The estimated costs of duplicative seats is off-set by the ability of the FUHSD to both reduce its portable inventory and reduce the scope of proposed new high school facilities. Therefore, the SFPD concludes that the cost to provide facilities is incidental and insignificant.

Bonsall Union School District
Projected High School Site Specifications
February 22, 2010

Background	Upon unification, the district's plan for the high school facility is to convert the existing Sullivan Middle School site into a high school over a 4 year period. The first year after unification would include 9th graders at the site, the 2nd year after unification would include both 9th and 10th graders, etc., until after 4 years of unification all 4 grades of high school (9 through 12) would be located at the site. The current enrollment at the middle school is 533 students. At this time, the site has 10 excess capacity classrooms for additional students if needed. This would provide ample space for the projected enrollment of 513 students for all four grades of high school. In addition, the site has a special education classroom and regional program currently housed on site.
Enrollment Size	Approximately 150 Students in year 1 and growing to 513 students in year 4. Based on projected enrollment, site is categorized as a "Small" school per CDE School Facilities Planning Division guidelines.
Site Address	7350 W. Lilac Road, Bonsall CA 92003 (already an existing middle school facility)
Gross Acres	18.0
Net Usable Acres	17.5
CDE Recommended Acres	17.4 to 23.2 Acres
Airport or Heliports Nearby	No airports or heliports within two nautical miles of school
Sq. Feet per Pupil Projected	17.5 acres less 1.34 parking acres X 43,560 sq. ft / 513 projected Students
Sq. Ft./Pupil CDE Standard	(for conservative purposes, utilized CDE's space guidelines for school of 400 students).

Outdoor Facilities*	**BUSD Facility**	**CDE Recommended**
Upper Field & Track	200' X 400'	260' 260'
Lower Fields	380' X 360'	360' X 360'
Upper Courts	320' X 320'	200' X 230'
Apparatus Area	3,500 sq. ft	3,000 sq. ft

* School will not have a football team and not require basic field M per CDE guidelines for football.

Parking and Roads**	2.54 Acres	3.6 Acres

** For first two years of operation, the high school will not have student drivers.

PETITION LANGUAGE

To: Rudy M. Castruita, County Superintendent of Schools
6401 Linda Vista Road, San Diego CA 92111-7399

WE, the undersigned registered electors of the Bonsall Union School District, in accordance with the provisions of section 35700(a) of the Education Code of the state of California, do, hereby petition the County Superintendent of Schools for the unification of the territory of the Bonsall Union School District as described In the attached legal description.

Unification is the formation of a "Bonsall Unified School District" to serve the needs of all students, kindergarten, through twelfth grade, along the current boundary lines of the present Bonsall Union School District. The governing board of the proposed unified school district will have five (5) members who are elected by the registered voters of the proposed district. Election of the Trustees will be concurrent with the unification election, and shall be conducted at large.

The undersigned request the formation of the unified school district for the following reasons:

1. We desire to establish a unrifled school district that will be responsive to the unique needs of our rural and geographically isolated student population.
2. We desire to provide a coordinated, sequential educational program for our children from preschool through twelfth grade.
3. We believe unification will increase collaboration between elementary staff, secondary staff, and the community in our pursuit of national, state, county, and local educational goals.
4. We believe that unification will provide a more effective use of district resources.
5. We believe it is necessary to unify to provide safe and effective services in the specific areas of health care, child nutrition, and special services.
6. We desire a unified educational system whereby educational expectations and accountability are driven by a single Board of Trustees and a single administration representing the Bonsall community.

For the purpose of receiving notice of any public hearings to be held on this petition, the following petitioners are designated as "chief petitioners":

1. Sharon		Fallbrook, CA 92028
2. Jennifer		Fallbrook, CA 92028
3. Darlene		Fallbrook, CA 92028

NOTICE TO THE PUBLIC
THIS PETITION MAY BE CIRCULATED BY A PAID-SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

Bonsall Union School District Area Unification Proposal
Educational Program and Facilities Plan

February 22, 2012

INTRODUCTION

The Bonsall Community and the Bonsall Union School District Governing Board has a shared vision for the unification of the district. For many years, the Boards have planned and implemented phases of changes necessary to encompass a small high school into the future opportunities for the learners in the District. Two members of the current board have been serving ten-years, one has sixteen years and another has twenty years of continuous service. The unification of this District is a long-term work in progress. The community members initiated the petition to unify and have long sought a high school for the Bonsall community.

The Board has studied the facilities issue and believes that Sullivan Middle School can house very adequately the small high school that it envisions. We do not want, nor do we need a massive brick and mortar structure like those from the past. Such a plant would not serve our needs. Nor do we need fifty acres of dirt to accomplish our mission. We want a high school where the choices for our learners are those that are of this decade and century, not the past century.

The plans of the Board are based on the demographics and character of our community. We continue to be a growing community. The desirability of the area affords us the luxury of planning slow growth, not decline. The current expansion of Highway 76 from two to four lanes connecting Bonsall to Oceanside will improve this growth and access to Bonsall High School. The addition of the Palomar Community College extension in North County has already begun and is an asset of great consequences for us.

Seven years ago as we worked on the unification process, we also set in motion reconfiguration of our grade levels to minimize transition issues. The sixth grade was moved from Sullivan Middle School to Bonsall West, a new school in the western boundary of our District. The plan was to move seventh and eighth in succeeding years. As the budget crisis hit, the plan was put on hold temporarily. We intend to continue this configuration phase-in as we move forward. This is not a plan that we are just thinking about; we have implementation that informs further execution of our plan. We know rather precisely what our successes and needs are.

While the district facilities could support all four high school grades right away, rather than make such a radical change from one fully implemented four-year high school to another, this Bonsall Unification Proposal is based on a plan of transitioning the grades at Sullivan Middle School from a middle school to a high school, one year at a time. The District’s current facilities will easily support such a transition, and this will also allow for less of an impact on the Fallbrook High School Campus. The campus and scheduling will allow for separation of older and younger students for most of their time on campus.

After the anticipated approval from the voters, Sullivan Middle School will retain its eighth grade class to matriculate into a ninth grade on the same location. Bonsall Elementary will retain its fifth grade class to matriculate into a sixth grade on its campus. As mentioned in the previous paragraph, Bonsall West already has a sixth grade; what would change there is that the sixth grade students would not have the choice to attend the Middle School without an intradistrict transfer. The Vivian Banks Charter School on the Pala Reservation will have the choice to also expand their current K–5 configuration accordingly, or to send their students to Bonsall Elementary on the bus that currently sends approximately thirty-five Pala residents to attend school there by choice.

The next year, the ninth grade students would matriculate into a tenth grade curriculum at the Sullivan site and the elementary campuses would retain their sixth grade students to matriculate into seventh grade at their sites. Although the initial intention was to expand all the elementary sites to K–8 configurations, the current economy has the District considering an 8–12 configuration for the high school and K–7 for the elementary schools. This would adjust the earlier study's projection of approximately 500 students to approximately 600 students, attending the high school; a number the intended site can very adequately provide for a none -traditional high school with greater focus on twenty first century skills and online learning.

As this document indicates, Bonsall High School will not be just a smaller version of the other high schools in our area; it will be an academy focused on 21st century skills of communication, critical thinking, collaboration, creativity, future oriented self-management, and civility. The principles that guide this focus will be: personalization of learning, a common understanding of the academic mission, real world application, and teachers as designers of curriculum. The district understands that some students and parents might prefer larger, traditional comprehensive high schools in the area such as Fallbrook High School, or the arts magnet, Mission Vista High School. Interdistrict transfers will be made available to such students. However, provisions will be made for students to be granted interdistrict transfers into the Bonsall high school as well. Currently, the performance of the Bonsall Union School District attracts almost twenty percent of its enrollment from interdistrict transfer agreements with surrounding school districts.

The transition into the continuation school at the site where the fire station used to be will be aligned to the rest of the District's plan.

DESCRIPTION OF EDUCATIONAL PROGRAM

The educational program of Bonsall High School will be aligned with a College and Career direction, the Common Core Standards, Smarter Balanced Assessments, and supporting a non-traditional approach to help students through the University of California's A–G requirements, and Career Technical Education. The design of the school will be similar to that of other high schools that have successfully adopted a non-traditional comprehensive high school model. The principles guiding the educational program are as follows: learning will be personalized, with common understanding of the academic mission, and have real world connections, with teachers as designers of the curriculum.

PERSONALIZED LEARNING

Students will pursue personal interests through projects and then compile and present their best work in personal digital portfolios. Facilities will be tailored to individual and small-group learning, including networked wireless laptops, rooms for hands-on activities and exhibition spaces for individual work. Each student at the new high school will have a staff advisor serving as the point of contact for the family. This advisor will monitor the student's personal and academic development. Students with special needs will receive individual attention in a full inclusion model.

The "Integrated Learning Environment" (ILE) is a vital part of the Bonsall Union School District's strategic plan (attached) to reach its vision/mission of "Academic Excellence and Support for All Students". The ILE not only integrates learning among our school and home environments, it also integrates with other strategic plan strategies such as Governance Alignment, Math Proficiency, Response to Intervention, Implementing the English Learner Master Plan, and a District-Wide Writing Program.

The Integrated Learning Environment (ILE) focuses technology in three areas: assessment (formative and student-centered), differentiation of instruction (game oriented, web-based computer applications), and extended learning (a cloud-based portal for 24/7 access). Using the Measurement of Academic Progress (MAP) testing application for formative assessment, and end - of - course exams, teachers and students identify academic strengths and weaknesses early in the school year, instead of teachers having to wait until they cover an academic topic to assess and identify a need. This will integrate well with the Smarter Balanced assessment model.

A more proactive collaboration for an Individual Learning Plan (ILP) to address the students' needs allows the teacher and student to better design the learning process. This process is enhanced by computer applications that differentiate learning and focus on accelerating areas of relative weakness using game-based practice, reinforcing conceptual development. Our students will have the option to focus attention on computer instruction, and games that provide immediate feedback and elevated challenge. They are able to engage in learning far longer than on classroom teacher instruction alone.

Using the ILE's cloud-based portal, students have 24/7 access to the web-based, game oriented applications wherever they can access the Internet. Students don't learn at the same rate and this allows extra time for those students who need it. It also provides extra time for the high achievers to learn at their rate too, without being held back by their class' average learning needs. Instead of the traditional curriculum where time is the constant and learning is the variable, the ILE makes time the variable and learning the constant.

The ILE increases extending learning beyond the class time through greater access to web-based applications and a cloud-based portal. Another example of this is our foreign language Rosetta Stone elective that offers not only a teacher assisted Spanish class but several other languages as well. In special education, iPads for students have shown great success as measured by API. Innovative use of technology will be a cornerstone of Bonsall High.

In a development planned to begin in the next 2–3 years, Palomar College will be across the street from the future site of a Bonsall School. We are exploring the possibility of this becoming a future site of a high school using a 2 plus 2 program where students in high school can graduate with up to two years of college credit. With an increased use of technology to serve the digital learner, our educational program will be flexible enough to adapt to a variety of settings.

The computer assisted, student-centered formative assessments and web-based, game oriented differentiated instruction are affecting students by making them more accountable and excited by immediate feedback of learning. The extended learning time provided by the cloud/portal will affect teaching and learning by going away from the one-size-fits-all homework assigned by teachers to a differentiated homework model provided by the web-based applications that focus learning time at the instructional level of the learner. Also, students don't have to be at school to receive instruction or guided practice; they can continue learning on their own time.

COMMON UNDERSTANDING OF THE ACADEMIC MISSION

The new high school in Bonsall will make no distinction between "college prep" and "technical" education; the program will qualify each student for college and success in the world of work. There will be no tracking at the new high school. The curriculum will be rigorous enough to provide entry and success at the University of California or any other college or university. Assessments will be performance-based: all students will develop projects; solve problems, and present findings to community panels. All students will be required to complete a personal digital portfolio, an academic internship, and a substantial senior project. Teacher teams will have ample planning time to develop integrated projects, common rubrics for assessment, and common presentation guidelines by which all students demonstrate their learning and progress toward graduation.

REAL WORLD APPLICATION

The 9th and 10th grade, as well as middle school students, may engage in “power lunches” with outside adults in of career interest, or "shadow" an adult through a workday, or perform community service in a group project. Juniors could complete a semester-long academic internship in a local business or agency. Seniors could develop relevant projects that enable them to learn while working on problems of interest and concern in the community. Bonsall schools believe students experience some of their best learning outside the school.

The Bonsall Union School District seeks to offer an attractive option to the large, comprehensive, or magnet high schools nearby. With a focus on academics, the relatively small size of the school, the personalization through advisory and the ILE, the emphasis on integrated, project-based learning and student presentations, the requirement that all students complete internships in the community, and the provision of sufficient planning time for teacher teams during the work day create the opportunity for students to employ 21st century skills as they prepare themselves to succeed in life not just in a school system.

TEACHERS AS DESIGNERS

The new high school teachers will work in interdisciplinary teams to develop the program for 50–60 students per team. The schedule accommodates team teaching, common planning time, project-based learning, intern-based learning, and other regular interaction with the outside world. Teachers will utilize open source and freeware offerings such as SAS Curriculum Pathways http://www.sascurriculumpathways.com, Khan Academy http://www.khanacademy.org/, and the Annenberg Foundation, http://www.learner.org/. Apple’s iTunes U is also a source of curriculum for the designing teachers. This area will expand as more offerings continue to become available.

The Bonsall Union School District’s educational program continues to show great results as shown below:

API from 2007–11 Grades 2–8

	BUSD Growth			State Growth	
	2007	2011		2007	2011
Overall:	795	877	(+82)	728	779 (+51)
English Learners: (ELs)	708	803	(+95)	657	718 (+61)
Students With Disabilities: (SWDs)	625	654	(+29)	541	614 (+73)

Hispanic Or Latino:	722	817	(+95)	727	744 (+17)
White:	865	929	(+65)	824	862 (+38)

Combining API and CST growth scores, Bonsall USD leads San Diego County in growth of overall student achievement. The 10–11 API growth for SWDs was highest in San Diego County. Also, Bonsall USD is one of only a few districts that still meet all the ELs' Annual Measurable Achievement Objectives. (AMAOs)

The San Diego County Office of Education's Classroom of the Future Foundation awarded Bonsall Union School District's Integrated Learning Environment the "Innovation in Education Award for Achievement".

By applying similar nontraditional approaches at the high school level, Bonsall could continue to provide academic excellence and support for all students through grade twelve.

FACILITIES EDUCATION PLAN AND CURRICULAR CONSIDERATIONS

There are plenty of buildings (ten extra buildings) at the Sullivan Middle School Site for the core educational program.

Science is intended to be a major emphasis at the new high school. With a first year transition into ninth grade, Biology will be introduced, then Chemistry in tenth grade, Physics in eleventh grade, and Earth Sciences in the twelfth grade. Investigation and experimentation will be the cornerstone of the Science program with a great dependence on virtual labs to allow greater experimentation without increasing safety risks. The science lab is already equipped with science demonstration and safety equipment and is located next door to one of the three computer labs at Sullivan Middle School (SMS).

Although currently SMS has a Similar Schools rank of 9, its recent 24-point growth increase in API could improve that ranking. It should be noted that Science is the relatively highest performing area of Sullivan Middle School's California Standards Test (CST) performance. Also, The Superintendent of the Bonsall Union School District is a Member of Board of Directors of the San Diego Science Alliance, with connections to many scientific corporations and labs. Using the Alliance to increase student understanding of the application of science, technology, engineering and math in everyday life as well as in our future will be accomplished through partnerships with various elements of the science field. Field trips like the High Tech Fair held recently by the San Diego Science Alliance was attended by Sullivan Middle School students, and has developed long term connections to the science industry. Internships and real world experience in application of science and math will be the result.

One such science connection will be developing relationships with the horticulture industry that is a vibrant part of the Bonsall community. A major part of the science curriculum will also be the Futures Channel, with the goal of using new media technologies to create a channel between the scientists, engineers, explorers and visionaries who are shaping the future, with Bonsall's learners who will one day succeed them.

Mathematics is a focus area of BUSD; one of the system strategies of the strategic plan of the BUSD is “Math Proficiency”. The Common Core standards are moving the emphasis on algebra to the ninth grade, but currently Sullivan Middle School will continue to emphasize algebra at the eighth grade. Geometry, algebra trigonometry, and calculus will be offered at proposed high school. There are ample classrooms to offer geometry to our ninth graders, algebra II to our tenth grade, and trigonometry or calculus to our eleventh and twelfth grade students. This is another area of the curriculum where we expect our Integrated Learning Environment to provide the ability to offer on-line courses such as Khan Academy to increase the collaborative nature of the pedagogy of higher-level mathematics, and integration with science. As with most of our classrooms, math classes will contain furniture that is more mobile than traditionally used, in order to encourage various groupings of students for differentiated instruction.

Reading/Language Arts will continue to increase their growth because BUSD also has ample classroom space for English classes on the middle school site, a library, and three computer labs for reference work. There are also three carts of laptops that can turn any class into a lab. Writing across the curriculum will be an emphasis articulated throughout the grade levels, and the integrated nature of real world application of learning will incorporate this. To better prepare students for research on the Internet, critical thinking and analysis will be a reading skill emphasized in the new high school.

The importance of writing and communication will be emphasized for the digital portfolios and presentations. The Common Core Standards will provide a greater focus on the expository skills required for professional success by writing informative/explanatory texts to examine and convey complex ideas, concepts, and information clearly and accurately through the effective selection, organization, and analysis of content. Students will also write arguments to support claims in an analysis of substantive topics or texts, using valid reasoning and relevant and sufficient evidence

Health Education at Bonsall High School is considered an essential discipline and learning opportunities that engage students as active learners will be designed to emphasize essential concepts such as the relationship between behavior and health. By providing a foundation for students to make informed decisions, they will be able to choose healthy lifestyles, products and services. The intention is to integrate nutrition and physical activity, growth and development, sexual health, injury prevention and safety, into physical education, and integrate alcohol, tobacco, and other drug use prevention, mental, personal and community health into science. With the increasing amount of brain research available, mental health will be a strong component of health education. Also, a coordination of all of the various aspects of health will take place in a fitness lab.

History/Social Sciences at Bonsall High School will begin in ninth grade with historical and social sciences analysis: chronological and spatial thinking, historical research, evidence, and point of view, as well as historical interpretation. By having the students become familiar with the writings of the founding fathers of the United States of America, students at the new high school will develop a thorough understanding of the value of primary sources in developing history resources. At the same time these students will have technology access to become

familiar with the times they study through rich media rather than textbooks only. We look forward to sharing the history of the Pala Tribe's own "Trail of Tears" and our Native American students realizing the value of the Iroquois confederacy of six nations and its impact on developing a democracy in America. The tenth through twelfth grade will study world history and its influence on modern culture, twentieth century US history, and the principles of American democracy and economics. The project-based demonstration of application of knowledge and skills will create rich presentations with each student showing what they know in a professional manner. Teachers as designers of curriculum will create varied lessons that integrate the frameworks and the assessments with the interests and projects of the students.

Visual and Performing Arts have a very strong level of community support in Bonsall. The current choir and band program of Sullivan Middle School will be expanded with the transitioning high school. Unlike most districts, the music program has not been eliminated due to budget cuts. The award winning show choirs are a very popular elective and will be expanded for the high school. The Bonsall Education Foundation, with support from the Pala Casino, has been doing great fundraising to continue support for the improvement of the visual and performing arts in Bonsall Schools. Art as an elective at the Sullivan Middle School will also be expanded with the transition into high school grades. A pottery kiln is to be added to the current art room.

Career Technical Education at Bonsall High School will begin at the ninth grade level with an emphasis on horticulture. A large (60x20) greenhouse will be erected on the campus area just west of the science building. The local Farmers Market, run by the Bonsall Education Foundation has many supporters that are asking for the development of a large-scale garden operation at this school site. It will be coordinated with our Health and Fitness, and Science program as well as the District's Food Services operations. Having seven casinos within twenty-five miles, hospitality management is another elective that will be developed to provide support for the human resources needed to staff these businesses.

Special Education facilities are easily meeting the current needs of students at BUSD. A regional program for our local SELPA is located at the middle school. Our Director of Pupil Services is housed at the District Office with a separate building containing its own offices, conference, and testing rooms for Individual Education Plan (IEP) meetings that can easily meet the increased needs of Special Education for high school students. It should be noted that last year the District focused its Response To Intervention (RTI) strategy on implementing the Integrated Learning Environment (ILE) in Special Education; this resulted in Bonsall Union School District's API for Students With Disabilities (SWD) rising 46 points; more than any other district in San Diego County!

Physical Education at Bonsall High School will be attuned to the needs of the learners of the current decade and future. Many of the students are active participants in choices that fit their needs and passions. We have many young people who are participating in activities that play an important part in our community and may or may not be connected to the school activities that play an important part in our community. We will pursue those interests and provide ways that students can include their work in their Individual Learning Plan. Others are involved in team sports and individual sports normally not offered in most high schools except as a unique piece or introduction to a variety of activities and sports. We have

students involved in soccer, basketball, softball, baseball, tennis, golf, volleyball, gymnastics, dance, weight lifting, track, cross country, equine, and others.

As students develop their Individual Learning Plans, they would build the health and physical activities into their plans. Careful planning, implementation, and documentation would allow the student to build skill levels that enhance the interest and joy of participation, and it would help our learners understand that we value what they bring to their educational planning and management.

The discussion of the facilities for the Physical Education is based on different ideas than typical programs, but with the same diligence and adherence to the standards and expectations of excellence.

Facilities in place at Sullivan Middle School:
Track-track and fitness activities
Soccer-soccer field
Baseball and softball-baseball field
Basketball-basketball courts
Volleyball-multi-purpose room
Dance- multi-purpose room
Field Hockey-soccer field

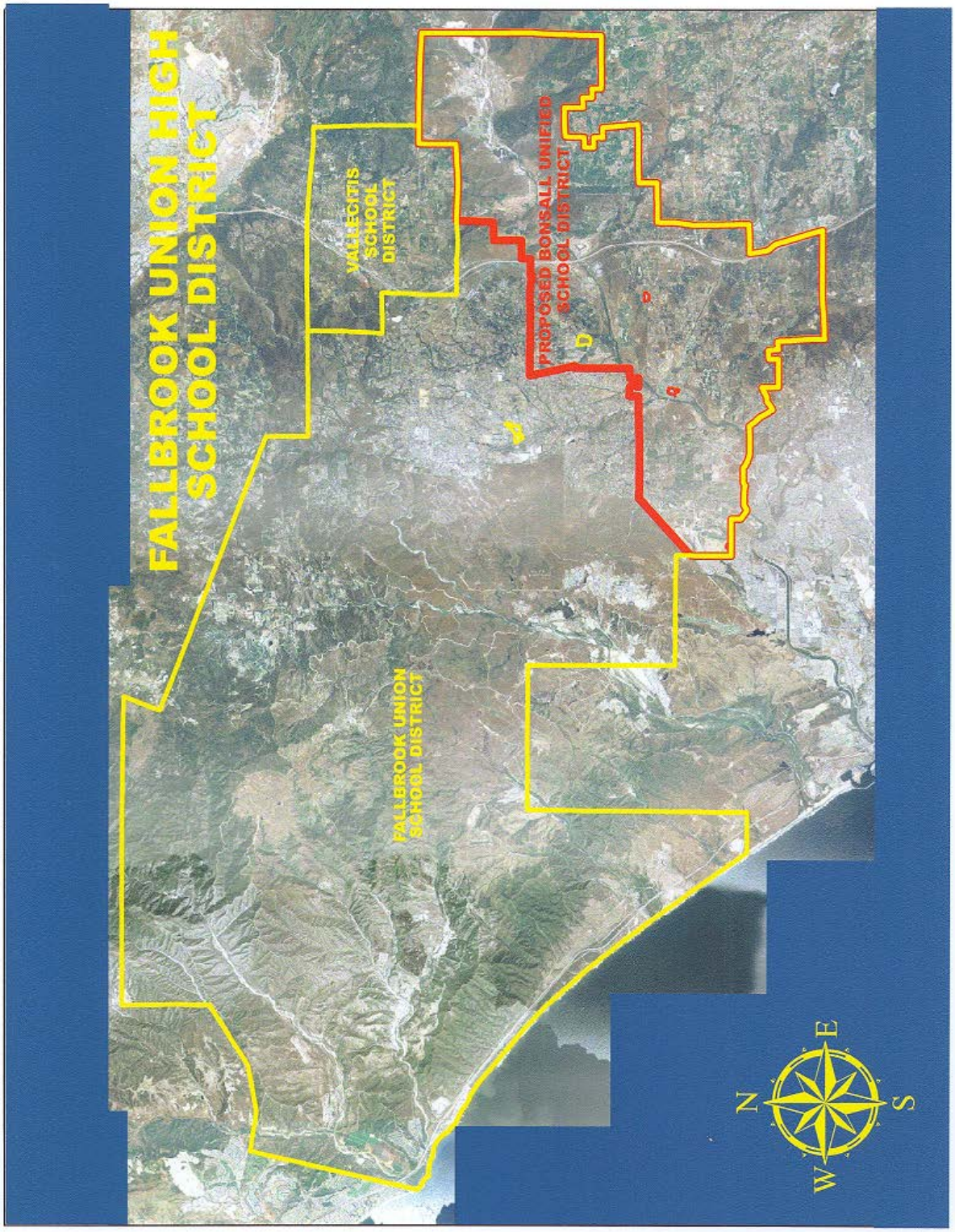
These facilities, as well as several golf courses and tennis clubs could also become facilities for interscholastic athletic teams.

Continuation School facilities will be located on the southwestern corner of the District Office location. Currently, the California Fire Department is located there and they plan to move to another location within the next two years, with an agreement made that the property will be resold to BUSD for the price it was bought for.

Parking Facilities will include additional 100 parking spaces are to be located just south of the current parking lot of approximately 100 spaces at Sullivan Middle School.

Through this unification application process, the Bonsall community is asking that the local community at least get the chance to vote on improving the choice of high schools for Bonsall students.

Map of Fallbrook Union High School District
Map includes the boundaries of Fallbrook Union High School District's three component elementary school districts, including the Bonsall Union Elementary School District proposed for unification.



California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 22

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Appeal of a Decision by the Santa Clara County Committee on School District Organization to Approve a Petition to Transfer Territory from the Lakeside Joint Elementary School District to the Loma Prieta Joint Union Elementary School District in Santa Clara County	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE(S)

The Santa Clara County Committee on School District Organization (County Committee) received a voter petition to transfer 17 parcels from the Lakeside Joint Elementary School District (JESD) to the Loma Prieta Joint Union Elementary School District (JUESD).

The petition was filed primarily because (1) the neighborhood (Marty Road) within which the petition area is contained is on a dead-end road and is split into two school districts; and (2) the Loma Prieta JUESD schools are physically closer to the petition area than are the Lakeside JESD schools (4.1 miles vs. 7.3 miles).

Both the Lakeside JESD and the Loma Prieta JUESD are component districts of the Los Gatos-Saratoga Joint Union High School District. At the time the County Committee heard the petition, five school-aged children from the area proposed for transfer attended school in the Lakeside JESD.

On July 28, 2010, the County Committee found that the proposal substantially meets all nine required conditions of California *Education Code* (*EC*) Section 35753. The County Committee subsequently approved the territory transfer unanimously. The governing board of the Lakeside JESD opposes the proposed transfer of territory while the Loma Prieta JUESD has not taken a formal position on the transfer (Note: During the public hearings [Attachment 4], the Loma Prieta JUESD Superintendent stated that the district supports the transfer but, upon his request, the governing board did not take action on a resolution).

Chief petitioners or affected school districts may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). In early September of 2010, the Lakeside JESD submitted its appeal to the Santa Clara County Superintendent of Schools (County Superintendent). The County Superintendent subsequently transmitted the

appeal, along with the complete administrative record of the County Committee action, to the California State Board of Education (SBE).

The Lakeside JESD opposes the transfer of territory for the following reasons:

- “Piecemeal” transfers of territory reflect an inefficient and fragmented approach to school district organization.
- The proposed transfer will disrupt the educational program for all Lakeside JESD students.
- The transfer does not promote sound fiscal management of the district.
- There may be other options for the transfer area students to attend Loma Prieta JUESD.
- The transfer may result in a loss of representation for Lakeside JESD voters.

The Lakeside JESD provided additional information (Attachment 2) to the California Department of Education (CDE) approximately a year and a half after the County Superintendent transmitted the administrative record of the County Committee action. In this information, the district claims that the proposed territory fails to substantially meet the following four minimum threshold conditions of *EC* Section 35753:

- The districts are each organized on the basis of a substantial community identity.
- The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
- The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
- The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

The Lakeside JESD further stated concerns that:

- The County Superintendent failed to provide the County Committee with accurate information regarding the timelines for approval of the proposed territory transfer. As a result, the district claims the County Committee “rushed to a decision” based on this lack of accurate information.
- The County Superintendent failed to make available an adequate description of the territory transfer proposal prior to the public hearing as required in the *EC*. The appellant suggests that it was possible that this inadequacy “confused area residents and deprived them of their right to express their opinions.”

The CDE finds that all minimum threshold conditions of *EC* Section 35753 are substantially met and makes the following specific findings about the four conditions that the Lakeside JESD claims are not substantially met:

- *Community Identity:* The appellant's information fails to demonstrate that the condition would not be met if the territory were transferred to the Loma Prieta JUESD. It only shows that the "community identity" condition is met if the territory remains with the Lakeside JESD.

- *Educational Programs:* Both affected districts perform very well academically. The Loma Prieta JUESD has a 2011 Growth Academic Performance Index (API) of 929, while the Lakeside JESD has a 2011 Growth API of 968. Due to its enrollment (80 to 90 over the past seven years), the Lakeside JESD has used multi-grade classrooms to serve its students. The district has adjusted the composition of these classes over the years in response to varying enrollments at individual grade levels as well as to shifts in overall enrollment. The loss of five students across the six grade levels should not create significant problems in creating such classroom groupings for an academically high performing district such as Lakeside JESD.

- *Property values:* The appellant provides no evidence that (1) the territory transfer would increase property values or (2) the petitioners are seeking the territory transfers primarily to increase property values.

- *Fiscal status:* For the 2010–11 year, the Lakeside JESD had revenue of over $19,000 per average daily attendance (ADA). Its revenue and expenditures per ADA are among the highest in the state for districts of equivalent size (see Attachment 3). The County Superintendent also has determined that the district's current fiscal status merits a positive certification.

Regarding concerns related to (1) a "piecemeal" approach and (2) the existence of other options for transfer, the CDE makes the following findings:

- The Lakeside JESD's belief that a "piecemeal" approach to territory transfers is inappropriate; moreover, its contention that other options to territory transfer are available are not issues of noncompliance that can be appealed.

- The County Committee is directed to use "local educational needs and concerns" as the basis for reorganization of districts in the county (*EC* Section 35500). It may choose (or not choose) to consider "piecemeal" transfers of territory or other options to territory transfers as valid local educational needs or concerns.

The CDE finds no support for the appellant's concerns that Lakeside JESD voters will be inappropriately denied an opportunity to vote on the territory transfer proposal. The CDE does not find that the potential effects of the territory transfer would warrant expanding the election area beyond the territory proposed for transfer. However, as a district with an enrollment below 900, the *EC* governs whether or not all the voters in the

district will participate in the election. *EC* Section 35756.5 states that the election area will include the entire district if (1) the district has an ADA less than 900 and (2) the governing board of the district opposes the transfer. The other voter concerns raised by the appellant (the territory transfer compromises a recent successful parcel tax election and will unseat a current member of the Lakeside JESD board) are not issues that can be appealed.

The CDE does find that the County Committee was provided some inaccurate information about timelines for making decisions on the territory transfer petition. Additionally, there was an inaccuracy in the identification of the affected districts in a section of the description of the petition that was required to be made available to the public pursuant to *EC* Section 35705.5. However, it is the CDE's opinion that these inaccuracies did not affect the decision of the County Committee or the ability of the public to comment on the proposal. Neither the Lakeside JESD, nor any member of the public, raised concerns about inaccuracies during the County Committee process (public hearings and decision to approve). The concerns were not included in the appeal filed by the district—it was not until over a year after the appeal was filed that the appellant brought the concerns forward. Moreover, when the appellant requested that the County Committee rehear the territory transfer proposal based on this (and other) new information, the County Committee declined (Attachment 2).

More detailed information about CDE's findings regarding the appellant's issues is included in Attachment 1.

In addition to the information provided in the administrative record concerning the territory transfer and the appeal, the CDE (in consideration of a recommendation to the SBE) has reviewed other related information that serves as context to the appeal. This information includes:

- The Lakeside JESD (with a 2011–12 kindergarten through fifth grade enrollment of 88) is the smallest school district under the jurisdiction of the County Superintendent. Over the past 25 years, the district has dealt with a number of issues related to its small size, including having to use multi-grade classrooms and, since 1988, sending middle school students to an adjacent district for an appropriate middle school educational program.

- During past discussions of the specifics of sending its middle school students to an adjacent district, the Lakeside JESD governing board has considered merging the district with an adjacent district.

- In addition to the Lakeside JESD's need to address specific issues related to its size, there recently has been significant county-wide interest in consolidating school districts in Santa Clara County. This interest has been shared by:

    - The Santa Clara County Civil Grand Jury.
    - The Silicon Valley Education Foundation.
    - The president of the Santa Clara County Board of Education.

- The County Committee, during consideration of a previous request to transfer territory from the Lakeside JESD, expressed an interest in merging the Lakeside JESD with another district.

More details regarding this related information also are included in Attachment 1.

RECOMMENDATION

The CDE recommends that the SBE delay action on the current appeal and, pursuant to *EC* Section 35720, direct the County Committee to consider alternative reorganizations of the Lakeside JESD and adopt a tentative recommendation (pursuant to *EC* Section 35720.5) for reorganization of that district. The CDE further recommends that the SBE direct the County Committee to adopt this tentative recommendation by November 15, 2012, and adhere to the timelines in *EC* Section 35705 for holding public hearings on the tentative recommendation. Subsequent to the public hearings, the County Committee may adopt a final recommendation for reorganization of the Lakeside JESD (pursuant to the timelines in *EC* Section 35706), which it would then transmit to the SBE.

Should the SBE decide not to direct the County Committee to formulate alternative plans and recommendations for the reorganization of the Lakeside JESD, the CDE's secondary recommendation is that the SBE review the appeal in conjunction with a public hearing and affirm the action of the County Committee to approve the proposal to transfer territory from the Lakeside JESD to the Loma Prieta JUESD. The CDE further recommends that the SBE determine that the area proposed for transfer will be the election area in the event that *EC* Section 35756.5 does not apply—*EC* Section 35756.5 would require the election area to be the entire Lakeside JESD if that district maintains its opposition to the proposed territory transfer.

BRIEF HISTORY OF KEY ISSUES

The *EC* establishes a process through which school districts, voters, or other interested parties may initiate a proposal to transfer territory from one school district to another. In each county is a county committee on school district organization (county committee). The county committee has responsibility for considering and subsequently approving or disapproving the territory transfer proposal. Pursuant to *EC* Section 35710.5, an action of a county committee may be appealed by an affected school district or the identified representatives of a voter signed petition.

The County Committee operates under the direction of the SBE. EC Section 35720 provides the SBE with authority to direct the County Committee to formulate plans and recommendations for the reorganization of any school district in the county. The process for local review of those plans and recommendations (and transmittal of plans and recommendations to the SBE) are provided in *EC* sections 35720.5 and 35722.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has not heard this item previously. The SBE did hear another appeal of a County Committee decision to deny a request to transfer territory from the Lakeside JESD at its September 2010 meeting and has heard 12 appeals from actions of county committees throughout the state over the past 5 years.

FISCAL ANALYSIS (AS APPROPRIATE)

If the territory is transferred, there would be no significant financial effects on either affected school district. Approval of the appeal would result in a local election and subsequent costs. Formulation of plans and recommendations for reorganization of the Lakeside JESD would result in unknown costs to the County Superintendent.

ATTACHMENT(S)

Attachment 1: Analysis of Statement of Reasons and Factual Evidence (19 pages)

Attachment 2: February 13, 2012, letter to Larry Shirey, Field Representative, School Fiscal Services, California Department of Education, from Elizabeth Bozzo, Superintendent/Principal, Lakeside Joint School District. (12 pages)

Attachment 3: 2010-11 Fiscal Data of Districts Similar in Size to Lakeside JESD. (1 page)

Attachment 4: Santa Clara County Committee on School District Organization, Public Hearing Minutes, May 27, 2010. (11 pages)

Attachment 5: Santa Clara County Committee on School District Organization, Minutes of the July 28, 2010 meeting. (4 pages)

Attachment 6: February 14, 2012, memo to State Board of Education from Andras and Andrea Szabo, Chief Petitioners in the Marty Road Territory Transfer Petition. (11 pages)

Attachment 7: Maps of Petition Area and Surrounding Territory. (2 pages)

Attachment 8: Notice of Public Hearings on: A Proposed Transfer of Territory from Lakeside Joint School District to Loma Prieta Joint Union School District. (5 pages)

ANALYSIS OF STATEMENT OF REASONS AND FACTUAL EVIDENCE

Appeal of a Decision by the Santa Clara County Committee on School District Organization to Approve a Petition to Transfer Territory from the Lakeside Joint Elementary School District to the Loma Prieta Joint Union Elementary School District

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1.0 RECOMMENDATION

The CDE recommends that the SBE delay action on the current appeal and, pursuant to *EC* Section 35720, direct the County Committee to consider alternative reorganizations of the Lakeside JESD and adopt a tentative recommendation (pursuant to *EC* Section 35720.5) for reorganization of that district. The CDE further recommends that the SBE direct the County Committee to adopt this tentative recommendation by November 15, 2012, and adhere to the timelines in *EC* Section 35705 for holding public hearings on the tentative recommendation. Subsequent to the public hearings, the County Committee may adopt a final recommendation for reorganization of the Lakeside JESD (pursuant to the timelines in *EC* Section 35706), which it would then transmit to the SBE.

Should the SBE decide not to direct the County Committee to formulate alternative plans and recommendations for the reorganization of the Lakeside JESD, the CDE's secondary recommendation is that the SBE review the appeal in conjunction with a public hearing and affirm the action of the County Committee to approve the proposal to transfer territory from the Lakeside JESD to the Loma Prieta Joint Union Elementary School District (JUESD). The CDE further recommends that the SBE determine that the area proposed for transfer will be the election area in the event that *EC* Section 35756.5 does not apply—*EC* Section 35756.5 would require the election area to be the entire Lakeside JESD if that district maintains its opposition to the proposed territory transfer.

2.0 BACKGROUND

Located in the Santa Cruz Mountains, the Lakeside JESD (with a 2011–12 kindergarten through fifth grade enrollment of 88) is the smallest school district under the jurisdiction of the Santa Clara County Superintendent of Schools (County Superintendent) and is one of four component elementary districts in the Los Gatos-Saratoga Joint Union High School District (JUHSD). Although enrollment has fluctuated significantly in the past (from 130 in 2001–02 to 80 in 2005–06), the past five years have been a relatively stable period of enrollment.

A basic aid district[1], the Lakeside JESD has remained fiscally healthy through the enrollment changes—the students of the district also have continued to perform at a high academic level.

Over the past 25 years, the district has dealt with a number of issues related to its small size, including having to use multi-grade classrooms and, since 1988, sending middle school students to an adjacent district for an appropriate middle school educational program. Initially, the Lakeside JESD sent its middle school students to the Los Gatos Union Elementary School District (UESD), which also is a component elementary district of the Los Gatos-Saratoga JUHSD. However, in the 2004-05 school year, the governing board of that district (after achieving basic aid status) voted to accept the Lakeside JESD students only if it received a "hefty per-student fee."[2] At that point, the governing board of the Lakeside JESD weighed a number of options, including merging the Lakeside JESD with an adjacent district.[3] The governing board ultimately decided to enter into an agreement with the Campbell UESD (a component district of the Campbell Union High School District [UHSD]).

In addition to the Lakeside JESD's need to address specific issues related to its size, there recently has been significant county-wide interest in consolidating school districts in Santa Clara County, due to the number and size of districts that currently exist. This interest has been shared by:

- The Santa Clara County Civil Grand Jury.[4]
- The Silicon Valley Education Foundation.[5]
- The president of the Santa Clara County Board of Education.[6]

Within the context of the specific issues related to the size of the Lakeside JESD and the general county-wide issue of school district consolidation, the current appeal of a County Committee action involving a transfer of territory from the Lakeside JESD is the second such appeal heard by the SBE in the past two years (the first was heard as Item 19 at the September 2010 SBE meeting). The current appeal involves a voter petition received by the County Committee to transfer 17 parcels (Marty Road) from the Lakeside JESD to the Loma Prieta JUESD. The purposes of the petition (as stated by the chief petitioners) are:

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[1] A basic aid school district is one in which the district's per pupil property tax revenue is greater than its per pupil revenue limit. A basic aid district does not receive its general purpose funding from the state; instead it receives all of its general purpose funding from local property taxes.
[2] *Tiny District won't Launch Program*, San Jose Mercury News, January 27, 2005.
[3] *Mountain Residents Voice Concerns over Future of the Lakeside District*, Los Gatos Weekly Times, December, 22, 2004.
[4] *Achieving School District Efficiency through Consolidation*, 2009-10 Santa Clara County Civil Grand Jury Report (http://www.scscourt.org/court_divisions/civil/cgj/2010/SchoolDistrictConsolidation.pdf).
[5] *Are 31 School Districts Too Many for Santa Clara County?*, San Jose Mercury News, January 17, 2012 (http://svefoundation.org/svefoundation/node/1599).
[6] *Forum in Santa Clara County Explores Issue of School District Consolidation*, California Grand Jury News, January 20, 2012 (http://cgja.blogspot.com/2012/01/forum-in-santa-clara-county-explores.html).

- The Marty Road neighborhood is located on a dead-end road and is split into two school districts. Students residing in the Lakeside JESD must travel through the Loma Prieta JUESD to attend Lakeside School.

- The territory transfer will place all neighborhood homes in the same school district and allow all children living in the Marty Road neighborhood to attend the same schools.

- The Loma Prieta JUESD schools are physically closer to the petition area than are the Lakeside JESD schools (4.1 miles vs. 7.3 miles).

- The territory transfer involves an insignificant number of parcels that will not substantially affect either school district.

Both the Lakeside JESD and the Loma Prieta JUESD are component districts of the Los Gatos-Saratoga JUHSD. At the time the County Committee heard the petition, five school-aged children from the area proposed for transfer attended school in the Lakeside JESD. The territory proposed for transfer is in Santa Cruz County, but both affected school districts are joint school districts (i.e., school districts lying in more than one county) and are under the jurisdiction of the Santa Clara County Superintendent of Schools (County Superintendent).

As noted previously, the Lakeside JESD does not provide an educational program for the sixth through eighth grade students residing within the district's boundaries. According to district information, these students attend school through memorandums of understanding (MOUs) with two neighboring districts—the Loma Prieta JUESD or the Campbell UESD. The MOU with the Loma Prieta JUESD was not in place at the time the County Committee took action to approve the territory transfer proposal. As noted previously, the Lakeside JESD and the Loma Prieta JUESD are component elementary districts of the Los Gatos-Saratoga Joint UHSD; and the Campbell elementary district is a component of the Campbell UHSD.

3.0 ACTION OF THE COUNTY COMMITTEE

The County Committee held two public hearings for the proposed transfer of territory on May 27, 2010—one within the boundaries of the Lakeside JESD and one within the boundaries of the Loma Prieta JUESD. Minutes of these public hearings are included as Attachment 4. The County Committee considered information from the County Superintendent, along with presentations by the affected districts and the petitioners, at a special meeting held on July 28, 2010 (Attachment 5).

Under the California *Education Code* (*EC)*, the County Committee has the following options:

- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are substantially met, it could approve the petition (though not required to do so), and would notify the County Superintendent to call an election on the proposed transfer (an election is required when an affected district opposes an approved transfer of territory petition).

- The County Committee could disapprove the petition to transfer territory for other concerns even if it finds that all nine conditions of *EC* Section 35753(a) have been met.

- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are not substantially met, it would be required to disapprove the petition to transfer territory.

The County Committee found that the proposal substantially meets all nine required conditions of *EC* Section 35753. The County Committee subsequently approved the territory transfer unanimously.

Chief petitioners or affected school districts may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). The Lakeside JESD (appellant) submitted such an appeal to the County Superintendent. The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE.

4.0 POSITIONS OF AFFECTED SCHOOL DISTRICTS

The governing boards of the affected districts have the following positions regarding the proposed transfer of territory.

4.1 Lakeside JESD

The Lakeside JESD is the appellant and its reasons for opposing the proposed territory transfer are listed in section 5.0 (Reasons for the Appeal) of this attachment.

4.2 Loma Prieta JUESD

Although the governing board of the Loma Prieta JUESD has not taken a formal position on the territory transfer action on a resolution (because it may appear to be an “aggressive statement”), the superintendent of the district stated that the district supports the transfer and made the following observations during the public hearing held in the Loma Prieta JUESD (Attachment 4):

- Students residing near the transfer area already attend schools in the district.

- The Loma Prieta JUESD can easily house the students who reside in the area proposed for transfer.

- Middle school curricula in Loma Prieta JUESD are closely aligned with the Los Gatos-Saratoga JUHSD, which students from the Loma Prieta JUESD middle school attend. Students from Lakeside JESD that attend the Campbell JUESD for middle school do not have the same alliances with the high school they will attend.

5.0 REASONS FOR THE APPEAL

The appellant asserts the following:

- "Piecemeal" transfers of territory reflect an inefficient and fragmented approach to school district organization.

- The districts will not each be organized on the basis of a substantial community identity.

- The proposed reorganization does not promote sound education performance and significantly disrupts the educational programs in the Lakeside JESD.

- The proposed reorganization is primarily designed to significantly increase property values.

- The proposed reorganization does not promote sound fiscal management and causes a substantial negative effect on the fiscal status of the Lakeside JESD.

- There are other options for the transfer area students to attend Loma Prieta JUESD.

- The transfer may result in a loss of representation for Lakeside JESD voters.

- The County Superintendent failed to provide the County Committee with accurate information regarding the timelines for approval of the proposed territory transfer.

- The County Superintendent failed to make available an adequate description of the territory transfer proposal prior to the public hearing as required in the *EC*.

These concerns will be described in more detail and addressed by the CDE in section 6.0 of this attachment.

6.0 CALIFORNIA DEPARTMENT OF EDUCATION RESPONSE TO THE APPEAL

Chief petitioners or affected school districts, pursuant to *EC* Section 35710.5, may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, and 35710. The courts (*San Rafael School District v. State Board of Education* [1999] 73 Cal.App.4th 1018, 1027) also have determined that provisions of *EC* Section 35753 are subject to review in any territory transfer appeal.

CDE staff has reviewed the issues raised by the appellant both in the initial appeal and in a subsequent submittal (Attachment 2). Additionally, information submitted by the chief petitioners (Attachment 6) in response to the appellant's submittal in Attachment 2 was reviewed by the CDE. The CDE's findings are described in the following subsections:

6.1 "Piecemeal" transfers of territory reflect an inefficient and fragmented approach to school district organization.

The validity of the County Committee's use of a legally allowed process is not an issue of noncompliance that can be appealed. In addition to the conditions of *EC* Section 35753, the County Committee is directed to use "local educational needs and concerns" as the basis for reorganization of districts in the county (*EC* Section 35500). No other restrictions are placed on the County Committee—it may choose (or not choose) "piecemeal" transfers of territory as an option to reorganize districts if it believes such an option meets "local educational needs and concerns."

6.2 The districts will not each be organized on the basis of a substantial community identity.

The County Superintendent made the following findings regarding this condition as it relates to the territory proposed for transfer:

- The territory can be considered "isolated" from the Lakeside JESD—it is located on a dead-end road, with the only entry through the Loma Prieta JUESD. Other properties on this road already are located in the Loma Prieta JUESD. Travel to the Lakeside school requires accessing Highway 17, while the commute to Loma Prieta schools is all on Summit Road.

- The territory is located approximately four miles from the Loma Prieta Community Center and approximately seven miles from the Lakeside Community Center. Due to the mountain community to which the territory belongs, there are few other social resources in close proximity to the transfer area. Petitioners state that they use the services (shopping, churches) along Summit Road near Loma Prieta schools and that their voting station and emergency response center is located at Loma Prieta schools.

- Travel time from the territory is approximately 13 minutes to the Loma Prieta schools and 16 minutes and to the Lakeside school (travel time to the Campbell middle school is 25 minutes). The districts offer bus service to the territory—however, petitioners note that bus travel times can be approximately two hours from Lakeside school and 20 minutes from Loma Prieta schools.

The County Superintendent recommends that the "community identity" condition of *EC* Section 35753 is substantially met. The County Committee unanimously found this condition substantially met.

The appellant claims the condition is not substantially met for the following reasons:

- The isolation of territory is common in the mountainous area of the two affected districts. Residents of the territory proposed for transfer can travel to the Lakeside school without accessing or crossing Highway 17. Highway 17 separates the territory from the Loma Prieta schools but not from the Lakeside school.

- Although an MOU with Loma Prieta JUESD currently allows residents of the territory proposed for transfer to attend Loma Prieta schools for sixth to eighth grade, the chief petitioners currently home-school their sixth grade student.

- Students from both districts spend up to 90 minutes on a bus traveling to and from school due to the topography and large geographic areas of the districts. Long bus rides are not unique to residents of the territory proposed for transfer. Moreover, proposed elimination of the home-to-school bus transportation may make bus transportation a non-issue.

It is the opinion of CDE that "isolation" largely is a non-factor in regards to the community identity condition when considering territory in mountainous regions such as this. Practically every parcel is isolated to some degree and property owners and residents certainly understand this and make choices to reside in mountainous areas at least in part because of the "isolation." Similarly, the travel distances and times

documented by the County Superintendent are largely non-factors in consideration of this condition. Maps of the territory proposed for transfer (and surrounding area) are included as Attachment 7.

In response to the appellant's statement that chief petitioners continue to home-school their children even with the MOU with the Loma Prieta JUESD in place, the chief petitioners claim (Attachment 6):

- They have been "vilified" by the governing board of the Lakeside JESD, resulting in a public view that they are "not good people" due to their desire to transfer out of the district.

- They "have removed their children from the jurisdiction of the Lakeside School district for the safety of their children." The chief petitioners claim that, at Lakeside School, their children were subject to everyday contact with staff and volunteers who have publically opposed their territory transfer petition and derogative comments from other children at the school. The chief petitioners claim that they do not intend to return their children to the Lakeside JESD due to such "hostile behavior."

Information presented by the appellant does not substantiate the claim that the "community identity" condition is not met. The appellant's information has shown that the "community identity" condition is met if the territory remains with the Lakeside JESD and fails to demonstrate that the condition would not be met if the territory was transferred to the Loma Prieta JUESD.

6.3 The proposed reorganization does not promote sound education performance and significantly disrupts the educational programs in the Lakeside JESD.

The County Superintendent made the following findings regarding this condition as it relates to the territory proposed for transfer:

- It is estimated that five students could be added to the Loma Prieta JUESD if the territory transfer is approved. The Loma Prieta JUESD currently has empty classrooms and small class sizes so the additional students should not significantly affect class size or academic offerings.

- The Lakeside JESD historically has had combination classes (e.g., fourth/fifth grade, second/third grade) and adjusts the number and configurations of such classes based on enrollment. Changes in enrollment can impact class configurations—however specific effects of the territory transfer cannot be determined without knowing numbers and grade levels of students affected.

> The Lakeside JESD has experienced and addressed fluctuations in enrollment without significant impact on the educational program. A decline of five students from different grade levels should not significantly disrupt the educational program of Lakeside JESD.

The County Superintendent recommends that the "educational program" condition of *EC* Section 35753 is substantially met. The County Committee unanimously found this condition substantially met.

The appellant claims the condition is not substantially met for the following reasons:

- The estimated loss of income to Lakeside JESD due to the territory transfer is equal to what the district spends for all classroom support staff; it is half the salary of a teacher; it is approximately what is spent on custodial and maintenance services. Such a loss in revenue will negatively affect the educational program.

- The Lakeside JESD currently has five teachers for six grade levels. The transfer of territory will force the district to cut one teacher from full- to part-time status.

- The Lakeside JESD already has been forced to make cuts to the educational program due to the current fiscal situation in the state.

The CDE notes that both affected districts perform very well academically. The Loma Prieta JUESD has a 2011 Growth Academic Performance Index (API) of 929 and has met all requirements for 2011 Adequate Yearly Progress (AYP). These academic results have been consistent through the years as the district's API has been above 900 for the last three years and has been above 800 since the first year of API. Similarly, the Loma Prieta JUESD has met all AYP requirements every year except for the first year the AYP was instituted.

The Loma Prieta JUESD has a 2011–12 enrollment of 445 but has seen enrollment over 600 as recently as the 2004–05 school-year. With identified classroom capacity and historically high academic performance, the CDE agrees with the County Committee that the proposed transfer of territory will not have significant negative effects on Loma Prieta JUESD educational programs.

The Lakeside JESD has had similar academic performance. The district has a 2011 Growth API of 968 and has met all requirements for 2011 AYP. The district's API has been above 900 since 2004–05, and also has been above 800 since the first year of API. Like the Loma Prieta

JUESD, the Lakeside JESD has met all AYP requirements every year except for the first year the AYP was instituted.

The Lakeside JESD has experienced relatively stable enrollments over the past seven years—with its K-5 enrollment not exceeding 90 nor falling below 80. However, with this relatively small enrollment spread across six grade levels, the district has needed to group multiple grade levels in single classes. The specific groupings can change across years as the percentages of enrollment at the different grade levels vary. The CDE agrees with the County Superintendent that the loss of five students across the six grade levels should not create significantly greater problems for the district in creating such classroom groupings and, thus, should not significantly affect the district's educational programs. The CDE also notes that enrollment in the Lakeside JESD has been slowly but steadily increasing since 2008–09.

Since the Lakeside JESD is a basic aid district, it will not lose significant funding as a result of a loss of students. The revenue loss primarily will be through reduced property tax collection (see section 6.5 of this attachment for more detailed information). The district has a funding level of well over $19,000 per ADA (average daily attendance) and a positive certification from the Santa Clara County Office of Education following its review and analysis of the Lakeside JESD's 2011–12 Second Interim Report. Although the CDE recognizes, and does not intend to minimize, the effects of the current state fiscal crisis on school districts, it does not find that the loss of what equates to expenditures for two ADA in the Lakeside JESD (a fiscally healthy and academically high performing district) will have significant negative effects on the district's educational programs.

The CDE agrees with County Committee's unanimous decision that this "educational program" condition is substantially met.

6.4 The proposed reorganization is primarily designed to significantly increase property values.

The County Superintendent, after finding no indication that the primary purpose to seek the territory transfer was to increase property values, recommended that the "property values" condition of *EC* Section 35753 is substantially met. The County Committee unanimously found this condition substantially met.

The appellant claims the condition is not substantially met for the following reasons:

- After establishment of an MOU between the Lakeside JESD and Loma Prieta JUESD, the chief petitioners continue to home-school

their middle school-age child. The appellant believes that this fact suggests a motivation for the territory transfer that was not known to the County Committee when it approved the transfer.

- At the public hearing held by the County Committee, two residents of the area proposed for transfer (who are realtors but who did not identify themselves as such) spoke in favor of the territory transfer. The appellant believes this indicates that they were in favor of the transfer to potentially escalate their property values.

The CDE does not find the appellant's claims persuasive for two reasons: (1) The appellant provides no evidence that the territory transfer would increase property values; and (2) The information provided does not conclusively establish that the individual property owners referenced support the territory transfer for the primary purpose of increasing property values, and certainly does not establish that the primary purpose of the entire territory transfer petition is to increase property values.

A response to the appellant's statement from chief petitioners regarding why they continue to home-school their children even with the MOU with the Loma Prieta JUESD in place is contained in section 6.2 of this attachment and in Attachment 6.

The CDE agrees with the County Committee's unanimous decision that this "property values" condition is substantially met.

6.5 The proposed reorganization does not promote sound fiscal management and causes a substantial negative effect on the fiscal status of the Lakeside JESD.

The County Superintendent made the following findings regarding this "fiscal status" condition as it relates to the territory proposed for transfer:

- Both the Lakeside JESD and the Loma Prieta JUESD are basic aid districts, so the transfer of students will not have an immediate effect on funding.

- The territory proposed for transfer annually generates approximately $123,000 in property tax revenue. The Lakeside JESD currently receives 22 percent of that revenue, or about $27,000 annually. The loss of this tax revenue will not affect the basic aid status of the Lakeside JESD.

- Voters in Lakeside JESD approved an annual parcel tax of $311 per parcel in May 2010. Assuming no exemptions (e.g., senior citizen, Supplemental Security Income) from the parcel tax, the 17

parcels in the territory proposed for transfer would generate $5,287 annually.

- The 2009–10 assessed valuation (AV) of the Lakeside JESD was almost $375 million. The territory proposed for transfer had an AV of about $11 million, which represents 2.9 percent of the total AV of the district.

The County Superintendent recommends that the "fiscal status" condition of *EC* Section 35753 is substantially met. The County Committee unanimously found this condition substantially met.

The appellant claims the condition is not substantially met for the following reasons:

- In addition to the over $5,000 in parcel tax revenue and the $27,000 in property tax revenue, the Lakeside JESD will lose categorical funding and bond payments from the territory proposed for transfer for a total loss of 3.3 percent of the district's budget.

- The Lakeside JESD has experienced a total reduction of 11 percent of its funding since 2010 due to the state's current fiscal crisis. It already has cut program and staff to perilously low levels as a result of these reductions in state funding.

- There are trade-offs between assuring fiscal solvency and supporting educational program. A 3 percent loss in funding means that the district cannot keep educational programs intact without threatening the fiscal solvency of the district.

The CDE notes that, for the 2010–11 year, the Lakeside JESD had revenue of over $19,000 per ADA. Its revenue and expenditures per ADA were among the highest in the state for districts of equivalent size (see Attachment 3). The County Superintendent also has determined that the district's current fiscal status merits a "positive certification," which is assigned to a district that, "based upon current projections, will meet its financial obligations for the current fiscal year and two subsequent fiscal years." (*EC* Section 42131)

Although (as noted previously) the CDE recognizes, and does not intend to minimize, the effects of the current state fiscal crisis on school districts, it does not find that the loss of what equates to expenditures for two ADA in the Lakeside JESD (a fiscally healthy district) will have significant negative effects on the district's fiscal status.

The CDE agrees with County Committee's unanimous decision that this "fiscal status" condition is substantially met.

6.6 There are other options for the transfer area students to attend Loma Prieta JUESD.

The appellant contends that "there may be a way forward to develop an option for students that wish to attend Loma that does not have such negative effects on all students at Lakeside." The Lakeside JESD has, since the appeal was filed, entered in to an MOU with the Loma Prieta JUESD to allow its middle school students to attend Loma Prieta JUESD.

It is CDE's opinion, as with the issue of "piecemeal" transfers of territory discussed in section 6.1 of this attachment, that the existence of another option to transfer students is not an issue of noncompliance that can be appealed. In addition to the conditions of *EC* Section 35753, the County Committee is directed to use "local educational needs and concerns" as the basis for reorganization of districts in the county (*EC* Section 35500). The County Committee may choose (or not choose) to recognize the existence of other options to transfer students in its evaluation of a territory transfer request depending on how such an option fits in to the County Committee's view of "local educational needs and concerns."

The CDE does acknowledge that the current MOU with the Loma Prieta JUESD was not in existence at the time the County Committee approved the territory transfer. However, the Lakeside JESD did request that the County Committee rehear the territory transfer and consider new information, including the information about the current MOU (Attachment 2). The County Committee declined rehearing the matter.

The CDE also notes that the MOU with the Loma Prieta JUESD only is for middle school students.

6.7 The transfer may result in a loss of representation for Lakeside JESD voters.

The appellant claims that the transfer of territory would compromise the parcel tax that was approved by voters in May 2010. The appellant further contends that voters in the Lakeside district as a whole could be denied the opportunity to vote on the territory transfer. Finally, the appellant expresses a concern that the transfer of territory would unseat one of the members of the Lakeside JESD governing board (presumably because the member resides in the territory proposed for transfer) and change representation of the district (Attachment 2).

It is the opinion of CDE that this concern is not an issue of noncompliance that can be appealed. However, the CDE does note that

EC Section 35756.5 requires the election area for a territory transfer proposal to be expanded to all voters of any affected district that (1) has an ADA of 900 or less and (2) opposes the territory transfer. The voters of the entire Lakeside JESD will have the opportunity to vote on the proposal if the district maintains its opposition to the territory transfer.

6.8 The County Superintendent failed to provide the County Committee with accurate information regarding the timelines for approval of the proposed territory transfer.

The appellant states that the secretary to the County Committee incorrectly advised the County Committee that it was required to make a decision on the territory transfer proposal approximately 60 days before a decision actually was required pursuant to the *EC*. The appellant notes that at least one member of the County Committee expressed an interest in the two affected districts entering into an MOU to allow students of Lakeside JESD to attend Loma Prieta JUESD. The incorrect information provided to the County Committee precluded any request that the districts work toward a student transfer MOU and, since the districts already were working on such an MOU, prevented the Lakeside JESD from providing information regarding the matter to the County Committee before it took action on the territory transfer proposal.

The CDE acknowledges that incorrect information regarding timelines for action was provided to the County Committee. However, the Lakeside JESD requested that the County Committee rehear the territory transfer proposal because of what the district believed was new information (such as the existence of the MOU). The County Committee declined rehearing the matter. Thus, the CDE finds that the incorrect timelines given the County Committee had no substantial effect on its actions since the County Committee had adequate opportunity to review any new information and reconsider its action in light of that information.

6.9 The County Superintendent failed to make available an adequate description of the territory transfer proposal prior to the public hearing as required in the EC.

As noted by the appellant, the County Committee must make available to the public and affected school districts a description of a territory transfer proposal at least 10 days prior to a public hearing. The County Committee met that timeline, but the appellant notes four deficiencies with the description of the proposal (Attachment 2): (1) the incorrect names of the affected school districts were provided in one section of the description (see page 2 of Attachment 8)—thus, the legally required description is inaccurate; (2) the inaccuracy in the description may have confused residents and deprived them of their rights to express their opinions at the public hearings; (3) the description states that the “rights

of the employees to continued employment will not be affected by the proposed territory transfer." The Lakeside JESD claims that it may have to move one of its teachers to part-time status as a result of the transfer; (4) the description of the petition identified 17 parcels to be transferred, while the original petition stated that 15 parcels were included in the proposal. The appellant claims it was never informed of the change in number of parcels.

The CDE does find that there was an inaccuracy in the identification of the affected districts in a section of the description of the petition that was required to be made available to the public and affected school districts pursuant to *EC* Section 35705.5 (see page 2 of Attachment 8). However, the CDE finds no evidence that this inaccuracy affected the ability of the public to comment on the proposal. The public hearing notification (page 1 of Attachment 8) correctly identified the names of the districts and the correct names also were included on the page of the description that contained the inaccuracy. Furthermore, this concern was not included in the appeal filed by the district—it was not until over a year after the appeal was filed that the appellant brought the concerns forward. The appellant has provided no evidence that the inaccuracy deprived any member of the public the right to express an opinion at the public hearings.

The CDE finds no support for the appellant's claim that the statement regarding employee rights is inaccurate. The rights of employees are identified in *EC* Section 35555 et seq. The CDE also does not find any support for the appellant's claim that it was never notified of the change from 15 to 17 parcels in the territory transfer proposal. Petitioners listed 15 homes but failed to include two uninhabited parcels that are driveways within the territory proposed for transfer. The fact that there were 17 parcels was conveyed to the districts in an April 26, 2010, letter from the County Superintendent to the SBE, CDE, County Committee, and affected school districts.

6.10 Summary

CDE staff does not find sufficient support for the issues raised in the appeal or in the additional information submitted by the appellant (Attachment 2) to justify overturning the unanimous decision of the County Committee to approve the territory transfer proposal.

The CDE recommends that the SBE deny the appeal and uphold the County Committee's decision to approve the territory transfer petition for the following reasons:

- The County Committee substantially complied with all requirements for public hearings and consideration of information regarding the proposed transfer of territory.

- The CDE agrees with the County Committee's unanimous findings that all of the nine conditions of *EC* Section 35753 are substantially met.

- There are no reasons to disapprove the territory transfer that are compelling enough to overturn the unanimous local approval by the County Committee.

7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION

The SBE has authority to amend or add certain provisions to any petition for reorganization. The CDE recommends only one provision be added to the petition if the SBE upholds the action of the County Committee by denying the appeal—establishment of the area of election. The following information details the CDE recommendation regarding this provision.

7.1 Area of Election

Determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with Section 35730) that the SBE may add or amend. *EC* Section 35710.5(c) also indicates that, following the review of an appeal, if the petition will be sent to an election, the SBE must determine the area of election.

The plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required (*EC* Section 35732). If a plan does not specify the area of election, the statute specifies that "the election shall be held only in the territory proposed for reorganization." Thus, the area proposed for reorganization is the "default" election area. The SBE may alter this area, but the alterations must comply with the "Area of Election Legal Principles" below. In this case, the County Committee approved the territory transfer, and the Lakeside JESD appealed the County Committee's decision. Therefore, following review of the appeal, if the petition will be sent to election, the SBE must, pursuant to *EC* Section 35756, determine the territory in which the election will be held.

7.2 Area of Election Principles

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992)

3 Cal. 4th 903 (the *"LAFCO"* decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the "default" area), provided there is a *rational basis* for doing so. *LAFCO* requires we examine (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates (in this situation, the analysis examines the interests of voters in the territory to be transferred from the Lakeside JESD, those that will remain in the Lakeside JESD, and those in the district that would receive the territory—the Loma Prieta JUESD). The proposed transfer, in the opinion of the CDE, does not reflect any genuinely different interests between voters in the transfer area and voters in either of the affected school districts.

A reduced voting area has a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewide in a manner that allows for planned, orderly, community-based school systems that adequately address transportation, curriculum, faculty, and administration.

Finally, discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO,* the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton Joint Union High School District v. State Board of Education* [1982] 32 Cal. 3d 779 [*Fullerton*]). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter of the transfer of territory from the Lakeside JESD to the Loma Prieta JUESD, no discrimination, segregation, or racial impacts are identified. Accordingly, the *LAFCO* standard and analysis applies.

7.3 Recommended Area of Election

CDE staff finds that the transfer of territory would have no significant effect on the voters in either the remaining Lakeside JESD or the receiving Loma Prieta JUESD. Therefore, there is no reason relative to the territory transfer itself, to expand the election area beyond the area proposed for transfer. However, pursuant to *EC* Section 35756.5, the election area for a territory transfer proposal shall be expanded to all voters in a district if (1) the district has an ADA of 900 or less and (2) the governing board of the

district opposes the territory transfer. The voters of the entire Lakeside JESD will have the opportunity to vote on the proposal as long as the district maintains its opposition to the territory transfer. The CDE recommends the SBE establish the area proposed for transfer as the area of election in the event that the Lakeside JESD drops its opposition to the proposal prior to the time the County Superintendent calls the election. If the district's opposition still exists at this time, the election area will be the entire Lakeside JESD (pursuant to *EC* Section 35756.5).

8.0 STATE BOARD OF EDUCATION OPTIONS

The SBE has the following options for this territory transfer appeal:

- The SBE may review the appeal in conjunction with a public hearing
    - Following review of the appeal, the SBE must affirm or reverse the action of the County Committee.
    - If the proposal will be sent to election, the SBE must determine the territory in which the election is to be held.
    - The SBE may reverse or modify the action of the County Committee in any manner consistent with law.
- The SBE may request additional information regarding the appeal or the territory transfer, and choose not to take action until a later meeting.
- The SBE, pursuant to *EC* Section 35720, may direct the County Committee to formulate plans and recommendations for an alternative reorganization of the Lakeside JESD. The County Committee then would bring the plans and recommendations back to the SBE for further action.

Note: If the SBE chooses to direct the County Committee to consider alternative reorganization options, it also may affirm or reverse the action of County Committee regarding the current territory transfer appeal as part of its direction to the County Committee; or, the SBE may elect to hold in abeyance any action on the current appeal until receipt of plans and recommendation from the County Committee.

9.0 RECOMMENDED ACTION

The CDE recommends that the SBE delay action on the current appeal and, pursuant to *EC* Section 35720, direct the County Committee to consider alternative reorganizations of the Lakeside JESD and adopt a tentative recommendation (pursuant to *EC* Section 35720.5) for reorganization of that district. The CDE further recommends that the SBE direct the County Committee to adopt this tentative recommendation by November 15, 2012, and adhere to

the timelines in *EC* Section 35705 for holding public hearings on the tentative recommendation. Subsequent to the public hearings, the County Committee may adopt a final recommendation for reorganization of the Lakeside JESD (pursuant to the timelines in *EC* Section 35706), which it would then transmit to the SBE.

Should the SBE decide not to direct the County Committee to formulate alternative plans and recommendations for the reorganization of the Lakeside JESD, the CDE's secondary recommendation is that the SBE review the appeal in conjunction with a public hearing and affirm the action of the County Committee to approve the proposal to transfer territory from the Lakeside JESD to the Loma Prieta JUESD. The CDE further recommends that the SBE determine that the area proposed for transfer will be the election area in the event that *EC* Section 35756.5 does not apply—*EC* Section 35756.5 would require the election area to be the entire Lakeside JESD if that district maintains its opposition to the proposed territory transfer.

The CDE makes its primary recommendation for the following reasons:

- Opposition of Lakeside JESD to the territory transfer requires that the election to approve the transfer be expanded to the entire district. This significantly reduces the probability that the transfer will be approved at an election—and, if the chief petitioners' claims that the district has generated district-wide animosity toward the petitioners (Attachment 6) are true, the territory transfer would even be more likely to be unsuccessful at a district-wide election. The CDE sees little sense in taking an action that would force an election on the territory transfer that is unlikely to be successful.

- As noted previously, there has been considerable general interest by a number of organizations in Santa Clara County (Civil Grand Jury, Silicon Valley Education Foundation, County Board of Education president) for the reorganization of districts, especially small districts. This interest has not been shared by school district governing boards and administrators or by a groundswell of community members—however, there also has not been any information on the specific effects of reorganization provided. A study of potential reorganization of the Lakeside JESD would provide such information.

- The Lakeside JESD governing board (as noted in section 2.0 of this attachment) previously has considered a merger of the district with an adjacent district. The County Committee also has expressed an interest in merging the Lakeside JESD with another district during its consideration of a previous request to transfer territory from the district (Item 19, September 2010 SBE meeting).

CDE Note: Referenced appendices and links in this document are not provided.

LAKESIDE JOINT SCHOOL DISTRICT
19621 BLACK ROAD LOS GATOS, CA 95033
408 . 354 . 2372
A California Distinguished School

February 13, 2012

Larry Shirey, Field Representative
School Fiscal Services Division
California Department of Education
1430 N Street, Suite 3800
Sacramento, CA 95814

Dear Mr. Shirey:

This letter describes the Lakeside Joint School District's ("Lakeside") position regarding our appeal of the Santa Clara County Committee on School District Organization's ("County Committee") decision in the Marty Road territory transfer petition. As described in greater detail below, we request that you recommend that the State Board of Education overturn County Committee's decision approving the transfer for two reasons: 1) the nine stated conditions in Education Code Section 35753 were not met due to facts the County Committee did not consider as well as facts that were not available to the County Committee at the time of their decision, and 2) the County Committee did not comply with the procedures set forth in Education Code Sections 35705, 35705.5, and 35706. To keep the matter within the local jurisdiction, and on your suggestion, we requested that the County Committee rehear the matter and allow us to present the new information directly to the County Committee. However, it declined to permit a rehearing. Given this, and given the procedural violations described below, we respectfully request that you review the County Committee's decision and recommend that the State Board of Education deny the territory transfer petition.

I.
Factual Background and Procedural History

The Lakeside Joint School District is a small, one-school district in the Santa Cruz Mountains just above the town of Los Gatos, with a rich 130 year history. We are a split-county district with approximately 70% of our families residing in Santa Cruz County and 30% residing in Santa Clara County. This year we serve 125 K-8 students with 89 K-5 students on our campus. Our middle school students benefit from MOU's with two

neighboring districts under which 23 students attend Rolling Hills Middle School in the Campbell Union School District ("Campbell") and 13 students attend C. T. English Middle School in the Loma Prieta Joint Union School District ("Loma"). C.T. English is the middle school that the Andrea and Andreas Szabo's (hereinafter "Chief Petitioners") children could attend if their parcel is transferred.

On or around April 13, 2010, Chief Petitioners filed a territory transfer petition with the Santa Clara County Committee on School District Organization. The petition called for 15 parcels to be transferred from Lakeside to Loma. The petition stated that the neighborhood was split into two separate school districts, creating a division in the community that has become "more apparent" given that "inter-district transfers are generally no longer granted." The petition further noted that the Loma campus was closer to the neighborhood than the Lakeside campus. On April 22, 2010, the Santa Clara County Clerk's office validated the signatures on the petition. On April 26, 2010, Santa Clara County Superintendent of Schools Charles Weis validated the request to transfer 17 parcels from Lakeside to Loma, two more than the original 15.

In May 2010, the County Committee published a Notice of Public Hearings on the proposed transfer and attached a description of the petition.

On May 27, 2010, the County Committee held two public hearings, one at Loma Prieta Community Center and one at Lakeside Joint School District.

On June 2, 2010, the Lakeside Board of Trustees voted not to approve the transfer because it was not in the best interest of the District, its students, and the community at large. The Lakeside Board opposed the transfer because the District would lose 3% of its funding and the transfer would set a precedent for future territory transfers. While Loma Superintendent Henry Castaniada has spoken out in favor of the transfer, the Loma Board of Trustees has not taken an official position on the transfer petition. (See Public Hearing Minutes, May 27, 2010, p. 4-5, 9.)

In June of 2010, the County Committee published a Feasibility Report on the proposed transfer. The report expressed no view on whether the petition should be granted. Rather, it analyzed the nine conditions (or what it called "criteria") that must be met for the State Board of Education to approve a territory transfer pursuant to Education Code Section 35753. After separately discussing the nine criteria, it determined that each had been met. As the report pointed out, the nine criteria represent the minimum criteria that must be met, leaving the County Committee the discretion, but not the obligation, to approve the proposed transfer.

On July 28, 2010, the County Committee held a second meeting on the proposed transfer. Following the meeting, the Committee voted to approve the transfer.

In September 2010, Lakeside filed its appeal with the State Board of Education.

In September 2011, at your suggestion, Lakeside requested that the County Committee rehear the matter based on the new information. On November 16, 2011, the County Committee met and declined to rehear the matter.

II.
New Information

Here is a brief list of some of the important new information not available to the County Committee in July of 2010:

1. Lakeside and Loma implemented a MOU in October of 2010 enabling Lakeside Middle School students to attend C. T. English Middle School in the Loma District. (See Appendix A) One eighth grade student in the Marty Road Area is attending C.T. English under this agreement. The Chief Petitioners also have one middle-school-aged child who is eligible to attend C.T. English. However, at this time, the Chief Petitioners have chosen to homeschool their child through the Ocean Grove Charter. (Condition 2, Criterion G; Condition 8.)

2. The proposed transfer would create a new isolated set of parcels on Zayante Road south of the proposed transfer area, as Lakeside residents will have to pass through part of the transferred area to get to Lakeside school. (Condition 2, Criterion A.)

3. Students in the proposed transfer territory experience bus travel times typical for both Lakeside and Loma. (Condition 2, Criterion D.)

4. The State has proposed to cut home-to-school transportation funding for Fiscal Year 2012-2013. (Condition 2, Criterion D.)

5. Lakeside has experienced additional cuts to education revenues since County Committee approved the transfer. The revenue that will transfer away from Lakeside with the parcels will mean cuts to teacher headcount which will disrupt Lakeside's educational program. (Condition 6.) Additionally, these cuts, along with the reduction of funds caused by the transfer of parcels out of Lakeside, will cause substantial negative effect on the fiscal status of the district. (Condition 9.)

III.
Discussion

A. The County Committee Did Not Establish That *All* Of The Conditions Set Forth In Education Code Section 35753 Were Substantially Met

The State Board of Education has the discretion to approve the territory transfer if it determines that all nine conditions set forth in Education Code Section 35753 are substantially met. Following the public hearing, the County Committee conducted a study to analyze the feasibility of the proposed territory transfer. The Feasibility Study analyzed the nine conditions described in Education Code Section 35753 and found

that all nine were met. Based in part on the feasibility study, the County Committee voted to approve the territory transfer.

The State Board of Education has authority to conduct a de novo review of whether the facts supporting a transfer satisfy the conditions of Education Code Section 35753. (*San Rafael Elementary School District v. California State Board of Education* (1999) 73 Cal. App. 4th 1018.) Based on new facts, as well as facts that the County Committee did not consider, you should recommend that the State Board deny the territory transfer because the County Committee erred in finding that the proposed transfer satisfies conditions 2, 6, 8 and 9.

Condition (2): The districts are each organized on the basis of a substantial community identity

Pursuant to Title 5, California Code of Regulations, Section 18573(a)(2), the County Committee used the following criteria to determine whether a district is organized on the basis of substantial community identity:

(a) Isolation;
(b) Geography;
(c) Distance between social centers;
(d) Distance between school centers;
(e) Topography;
(f) Weather; and
(g) Community, school, and social ties, and other circumstances peculiar to the area.

As set forth below, the County Committee erred in finding that the isolation, distance between school centers, and community, school and social ties criteria were met.

Criterion A, Isolation

The feasibility study stated “the area proposed for transfer is removed from the Lakeside school by Highway 17...” (Feasibility Study, p. 5.) This is incorrect. Highway 17 separates Marty Road from Loma, not from Lakeside. (See Appendix B.) Furthermore, Summit Road leads to Lakeside School from Marty Road without accessing or crossing Highway 17. (See Appendix B.) This route is frequently used by current families and staff to access Lakeside School from that portion of our district. Additionally, there are only four parcels on Marty Road which are currently part of the Loma District that must be passed by a person traveling from the proposed territory Summit Road and to Lakeside School.

Furthermore, if this territory transfer is completed, a new, isolated set of parcels will be created on Zayante Road south of the proposed parcels. (See Appendices C and D.) Four of the parcels requesting transfer will have to be passed through by Lakeside residents in order to get to Lakeside School. Therefore, the transfer of the proposed

parcels will create the same problem that it is attempting to solve. (See Appendices C and D.)

Lastly, this minor "isolation" of parcels found in the proposed transfer area is common in our region and is fairly common throughout the State. There are several other groups of Lakeside residents who must currently pass through other district's boundaries to get to Lakeside School. (See Appendix D.)

Criterion D, Distance from School Centers:

The feasibility study indicated that the only difference in travel time that met the County's definition of extreme hardship was the travel time by bus to Rolling Hills. Regular travel time from the Marty Road area to Lakeside and to Rolling Hills only exceeded travel time to Loma by 3 and 12 minutes, respectively. (Feasibility Study, p. 5.)

Based upon questions and comments of County Committee members, it was clear that the County Committee was concerned about long bus rides by Lakeside students to the Marty Road area. Since the hearing, we have learned that students in both Loma and Lakeside spend up to 90 minutes on the bus due to the topography and large areas of the school districts involved. (See Appendix E.) The knowledge that this duration is common in both districts may alter the view of committee members. While it is unfortunate for all who ride the bus for an extended period, the situation is no way unique to residents of the proposed transfer area, and they retain the option to dramatically shorten their students' transportation time by providing their own transportation on more direct routes.

Moreover, travel time by bus may be a moot issue due to the proposed elimination of home-to-school transportation funding from the California state budget beginning in the 2012-13 school year. SB 81 recently enacted by the Legislature does not ensure funding for the 2012-13 school year, and the proposal to eliminate transportation funding remains part of the proposed budget. If bus travel time becomes a non issue, this criterion would not be met.

Criterion G, Community, School, and Social Ties and other Circumstances:

The feasibility study considered the statements of the Petitioners when it evaluated this criterion. (See Feasibility Study, p. 12.) While the Petitioners stated that they do not feel they belong to the Lakeside/Black Road/Las Cumbres community, the eldest of the Chief Petitioners' two children attended Lakeside School for five years. During this time, there were no complaints regarding community identity. This issue appears to have arisen coincident with their transfer petition. Furthermore, while the Chief Petitioners state that those on Marty Road are a close-knit community (see e.g. Transfer Petition, April 5, 2010), at one of the Loma School Board meetings, the then-sitting board president, Diane Matlock, a Marty Road resident, did not know the Chief Petitioners. This sheds doubt on the claim by the Chief Petitioners regarding the tight community identity along this more-than-one-mile-long road.

Since the County Committee approved the petition, Lakeside has entered into a MOU with Loma permitting Lakeside students in the sixth, seventh, and eighth grades to attend C.T. English Middle School in Loma. (See Appendix A.)

Additionally, there has been a change in the number of affected school-age children living in the proposed transfer area. In the 2011-12 school year, there are five school-age children in the Lakeside District. One is an eighth grade student attending C.T. English Middle School in Loma under the MOU. This student will be moving on to high school next year. Thus, in the 2012-2013 school year, there will be four school-age children. The parents of two of these four children have expressed a strong desire to continue with the Lakeside program and oppose this territory transfer. (See July 28, 2010 Meeting Transcript, pp. 4-5.) Specifically, the parents of a second grade student attending Lakeside and a sixth grade student attending Rolling Hills Middle School in the Campbell District oppose the transfer. Their opposition is particularly significant because there is no education services agreement between Campbell and the Loma that would allow their child in the sixth grade to continue attending Rolling Hills Middle School. Thus, the proposed transfer may cause an unnecessary disruption in both of their children's education.

The only other school-age children in the proposed territory area are the children of the Chief Petitioners. Despite the fact that Chief Petitioners' sixth grade student could already attend Loma through the MOU, they have chosen to home school both their children through the Ocean Grove Charter.

At the November 16, 2011 rehearing, Mr. Szabo was asked by a committee member if he would send his children to Loma schools. He indicated that he thought it would be a benefit to his children, and he would consider every prospect of it and look into it for his children. However, he did not positively state that he would enroll his children. (See Appendix G.)

Click for audio

As indicated above, the Chief Petitioners already have the option of enrolling their sixth grade child at Loma, but have failed to do so. In February of 2011, the Chief Petitioners returned a middle school selection form indicating their intention to enroll their sixth grade child in C.T. English Middle School in Loma under MOU between Lakeside and Loma, but withdrew their daughter in August prior to the beginning of school. (See Appendix H).

Condition (6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization:

The feasibility study found that because the Lakeside would only lose five students, and since these students would be spread across different grade levels, the transfer would

not significantly disrupt the educational programs of Lakeside. (See Feasibility Study, pp. 12-13.)

However, funding and program quality and performance are inextricably linked. Reductions in funding over the last few years have forced school districts throughout the state to cut programs and staff to the point where new funding reductions lead directly to significant impact on the educational programs of those districts. Lakeside is among those districts. We have cut staff and programs several times in the last few years. Losing an additional approximately 3% of our total revenue via this territory transfer will mean even further cuts to staff and programs necessary to deliver a sound educational program.

Specifically, Lakeside School currently has five teachers to teach six grades, which usually results in two, two-grade combination classes. If the territory transfer were to go through, we would be forced to cut one of our teachers from full- to part-time status.

Reductions in funding from the last three years (See "Condition (9)," below for details) have forced reductions in expenses and staff. To date, Lakeside has reduced the resource teacher position from 1 FTE to 0.2 FTE, reduced classified support staff by two positions, and reduced the facilities position to 0.5 FTE.

The impact of the proposed territory transfer will be felt throughout the district and would affect all of our 125 students, not just the five currently living in the proposed transfer area.

Condition (8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values

After only considering "the original petition and statements made by the petitioners," the feasibility study found that "there [was] no indication that this request is primarily designed to increase property values." (See Feasibility Study, p. 15.) Had the County Committee reviewed of the entire record, it would have found that this condition was not met.

As stated above, the Chief Petitioners do not take advantage of the MOU between Lakeside and Loma Prieta and instead home school their children through the Ocean Grove Charter. Furthermore, at the November 16, 2011 request for rehearing, Mr. Szabo stated:

> In the meantime children disappear from my community. Other children however do not come. During the past three years new families moved to the Lakeside side of Marty Road, none of them have small children, elementary school age or younger. The road is getting old. I am fifty-two years old; I am one of the youngest males on the road. We would like to revive Marty Road, do not wish it to become a retirement community.

(See Appendix F.)

At the very least, this statement suggests a motivation of the Chief Petitioners which was not known to the County Committee at the time of their decision. We at the Lakeside Joint School District do not believe that school district reorganization should be a tool for homeowners wishing to sculpt the makeup of their surrounds to their personal vision.

At the May 27, 2010 hearing, two realtors, who did not identify themselves as such, but are residents in the affected parcels, spoke in favor of the transfer. We feel they did so in the interest of potentially escalating the property value of their parcels not in the interest of student education. (See Appendix I.)

Condition (9) The proposed reorganization will continue to promote sound fiscal management and not cause substantial negative effect on the fiscal status of the proposed district or any existing districts affected by the proposed reorganization.

There is interplay between this condition and condition 6. The Board of Trustees of the Lakeside Joint School District has discussed the trade-off between assuring fiscal solvency and supporting the educational program. If the Board decides to keep programs intact, the loss of approximately 3% of the annual revenue via this territory transfer contributes to the deficit between revenue and expenses that threatens the solvency of the District. This illustrates that either condition 6 or 9 can be satisfied, but not both.

The feasibility study examined the Average Daily Attendance, Basic Aid Status, Parcel Tax and Assessed Valuation for Lakeside and determined that Condition 9 was met. (See Feasibility Study p. 16.) Unknown to the County Committee in July 2010, revenue for the Lakeside District has continued to be cut. Since 2010 the District has lost:

- 3% in Property Tax Funding
- 34% from Federal Funding
- 38% from State Funding
- For a total reduction in funding from 2010 of 11%

Lakeside's fiscal outlook has changed since July 2010, and the proposed transfer would cause a substantial negative effect on the fiscal status of Lakeside.

B. The Santa Clara County Office of Education Did Not Comply with the Procedures Outlined in the Education Code

1. The County Committee rushed to a decision based on an erroneous interpretation of Education Code Section 35706.

Education Code 35706 provides in pertinent part:

> Within 120 days of the commencement of the first public hearing on the petition, the county committee shall recommend approval or disapproval of a petition for unification of school districts or for the division of the territory of an existing school district into two or more separate school districts, as the petition may be augmented, or shall approve or disapprove a petition for the transfer of territory, as the petition may be augmented.

The first public hearing occurred on May 27, 2010. 120 days from May 27 is September 24.

On July 28, 2010, the committee secretary Suzanne Carrig gave the County Committee an incorrect direction. While she correctly stated that the County Committee had 120 days to make its decision, she incorrectly stated that the 120 days expired "about tomorrow."

(see audio (120days) attachment.).

At the time, at least one committee member wanted to see the districts work out an MOU or other agreement, but the entire committee was misinformed that time was running out and a decision had to be made that night.

(see audio looking for an MOU).

However, under Education Code Section 35706, the Committee had an additional 60 days, ample time to ask for mediation, and could have asked the districts to come back to a later meeting with an agreement. In fact, the districts were already working towards an agreement. (See Appendices K, K(a), K(b), K(c), K(d), K(e), K(f), K(g), K(h).) The negotiations began following similar suggestions made by the County Committee at the May 27, 2010 hearing. (See Appendices K, K(a).) Following the July 28, 2010 County Committee meeting, both Loma and Lakeside announced their intent to negotiate an MOU at their **next** board meetings. (See Appendices K(b) and K(c). The parties quickly reached an MOU which Lakeside ratified at its September 15, 2010 Board Meeting. (See Appendix K(g).) Had the County Committee taken the full 120 days before rendering its decision, it would have known about the MOU reached between Lakeside and Loma.

2. The County Committed failed to comply with Education Code Sections 35705 and 35705.5

Education Code Section 35705.5 requires the County Committee to make available to the public a description of the petition at least 10 days before the hearing. In the May 2010 Lakeside to Loma Prieta Transfer Proposal, under the heading of "Description of Petition," it states:

> The proposal requests a transfer of territory from San Jose Unified School District to Santa Clara Unified School District. A map of the territory proposed for transfer and a list of the Assessor Parcel Numbers (APNs) are attached.

The request has been made by the following school districts:
Andras and Andrea Szabo
1010 Marty Road
Los Gatos, CA 95033

(See Appendix L; Transfer Proposal p. 1.)

Both the district where the territory is to be transferred from and the district where to territory is to be transferred are incorrect. Thus, the legally required description of the petition is inaccurate and does not comply with Education Code Section 35705.5. We further are concerned that area residents may have simply read “San Jose Unified” and “Santa Clara Unified,” thought the hearing would not affect them, and thus failed to express their opinions at the public hearing required by Education Code Section 35705. Furthermore, the request was not made by a school district but was instead made by individual citizens. The process for territory transfers is different when it is initiated by individuals than when it is initiated by a public agency. Again, it is possible that this confused area residents and deprived them of their right to express their opinions at the public hearing required by Education Code Section 35705.

Additionally, the description of the petition goes on to state:

1. The rights of the employees in the affected districts to continued employment.

Not applicable to the current proposal. The rights of the employees to continued employment will not be affected by the proposed territory transfer.

(See Transfer Proposal p. 2.)

As elaborated above, this is not factual. Lakeside may have to move one of its teachers to part time status. Therefore, the description of the petition does not comply with Education Code Section 35705.5. Again, we are also concerned that area residents interested in this criterion may have been satisfied that employees were secure (when in fact they are not) and based on this, not expressed their opinions to the County Committee at the public hearing required by 35705.

Finally, in the original petition and in the public notices, it was described that 15 parcels were involved in this proposed transfer; however the final validation by the Santa Clara County Office of Education to the State Board of Education listed 17 parcels. We were never informed of the change in the number of parcels until reading the validation made by the Santa Clara County Office of Education.

C. The State Board should consider other pertinent information before exercising its discretion to approve the territory transfer

Even if the State Board finds that the nine conditions were met, the Board retains the discretion to deny the petition. (Educ. Code § 35753; *Hamilton v. State Board of Education*, (1981) 117 Cal. App. 3d 132.)

If this transfer goes ahead, it will unseat a Lakeside School Board member, which will change the representation of the District.

Additionally, as stated above, the Chief Petitioners have never requested an inter-district transfer out of the Lakeside District for either of their children, further suggesting that the motivation for the territory transfer is something other than educational.

D. Should the State Board deny our appeal, we would respectfully request that the required election be held in the entire territory of the Lakeside District since all of this area will be affected by the loss of revenue to their school district.

Education Code Section 35756.5 provides:

> In the case of the transfer of territory from one district to another, if the transfer is opposed by the governing boards of one or more of the districts affected with an average daily attendance of 900 or less, the territory in which the election isheld shall include the entire territory of the districts opposing the transfer. Each district with an average daily attendance of 900 or less which is included in an election because of the objection of its governing board to the transfer shall bear the additional cost of holding the election in that portion of its territory not otherwise Included in the election. When a majority of the votes cast in the school district opposing the transfer and a majority of the votes cast in the entire territory in which the election is held are in favor of the reorganization, the proposal carries.

Since Lakeside's governing board opposes the transfer and Loma's governing board has no resolution on the topic (and is therefore not in opposition to the transfer), the election should be held only in the Lakeside territory and should include all of the Lakeside territory.

IV.
Conclusion

It is generally agreed upon that these territory transfers should be "for the kids." The nine conditions attempt to establish a mechanism to redraw district boundaries when it works to the benefit of all the children involved, while at the same time holding established districts harmless. The Marty Road territory transfer does not accomplish that goal. If the purpose of this transfer was to allow the children of Marty Road to attend Loma, then the two districts have worked out an agreement that does just that.

Examining the five children residing in the area affected by this proposed territory transfer, it should be noted that one child would be unaffected because he is already attending the school into which he would be transferred and he is moving on to high school next school year. Two of the children are being homeschooled (even though one of them is eligible to attend the school into which she would be transferred). And two do not want to be pulled from their current schools and reassigned to new schools. Additionally, the loss of funding and corresponding reduction in educational programming would adversely affect all the children in the Lakeside Joint School District. Your recommendation to the State Board of Education should be “for the kids,” and accordingly, we respectfully request you to recommend that this territory transfer petition be denied.

Thank you for your attention to this matter.

Sincerely,

Elizabeth Bozzo
Superintendent/Principal
Lakeside Joint School District
19621 Black Road
Los Gatos, CA 95033

2010-11 Fiscal Data of Districts Similar in Size to Lakeside JESD

						Expenditures per ADA				
County Name	**District Name**	**Students Enrolled**	**Pupil-Teacher Ratio**	**% Free/ Reduced Meals**	**Total Revenue per ADA**	**Certificated Salaries**	**Classified Salaries**	**Employee Benefits**	**Books and Supplies**	**Services and Other Expenses**
Kern	McKittrick ESD	73	12.2	23.3	23,988	4,483	2,681	3,730	731	1,509
Fresno	Pine Ridge ESD	93	16.9	37.6	21,468	6,793	3,728	3,952	897	2,601
Santa Clara	Lakeside Joint ESD	85	17.0	7.1	19,436	6,430	2,472	1,750	300	5,618
Santa Barbara	Vista del Mar UESD	93	10.0	30.1	18,832	9,104	3,727	3,974	989	1,711
Butte	Pioneer UESD	79	19.3	78.5	15,260	4,647	4,093	3,024	1,055	2,698
Monterey	Bradley UESD	76	19.0	53.9	14,244	4,644	1,368	1,874	965	2,697
Sonoma	Monte Rio UESD	89	15.9	73.0	13,735	5,315	3,132	2,323	490	2,234
Trinity	Burnt Ranch ESD	97	15.6	48.5	13,255	3,539	2,426	1,812	750	1,344
Trinity	Junction City ESD	81	18.0	63.0	12,962	4,787	2,984	3,348	561	1,953
Shasta	Igo, Ono, Platina UESD	81	16.2	74.1	12,931	4,155	2,335	1,837	721	3,372
Siskiyou	Big Springs UESD	84	16.8	51.2	12,656	3,105	3,529	2,527	1,031	1,729
Madera	Raymond-Knowles UESD	78	15.6	83.3	11,548	4,451	1,586	2,656	864	1,827
Tulare	Allensworth ESD	76	19.0	105.3	11,428	4,344	1,447	1,998	552	1,528
Tulare	Saucelito ESD	80	17.8	81.3	11,113	3,347	987	2,931	274	1,743
Siskiyou	McCloud UESD	84	18.3	63.1	10,925	4,145	1,511	1,614	513	2,291
Shasta	Castle Rock UESD	75	18.8	85.3	10,296	4,468	1,499	1,893	466	1,345
Merced	Snelling-Merced Falls UESD	93	19.8	76.3	9,256	3,310	1,380	1,614	475	1,315
Imperial	Mulberry ESD	83	20.8	47.0	8,921	2,541	1,608	1,441	728	1,207
Monterey	Lagunita ESD	93	21.1	9.7	8,207	3,273	875	1,732	362	1,022
Tehama	Kirkwood ESD	90	22.5	53.3	7,870	2,405	1,950	1,318	444	938

Sources: California Department of Education and the Ed-Data Partnership

SANTA CLARA COUNTY
COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Proposal to Transfer Territory from
Lakeside Joint School District to
Loma Prieta Joint Union School District

Public Hearing Minutes
May 27, 2010

The first public hearing began at 3:30 p.m. and was held at the Loma Prieta Community Center.

The following County Committee members were present:

Nejleh Abed
Rose Filicetti
Steve Glickman
Josephine Lucey
Phil Nielsen
Teresa O'Neill
Pam Parker

SCCOE staff present:
Suzanne Carrig

Committee Chair Pam Parker reviewed the public hearing guidelines and speaking order. Suzanne Carrig reviewed the transfer request and the description of petition.

Petitioners

Andras Szabo, Chief Petitioner
Good Afternoon. My name is Andras Szabo, I am one of the chief petitioners of the current petition.

First I would like to thank the committee for considering this case. I would like to point out that this petition is not against the Lakeside community, who are great people, just a little far from us on the map. Also, although the schools are heavily involved in the decision making, the schools are only minimally affected, and we feel that this petition is not about the schools. The petition is about Marty road, Marty road is 100% affected. Let me add that when I refer to Marty road I mean Marty road together with the small side road of Jensen Springs, that opens from Marty road and has four properties altogether. These four properties are included in the 15 occupied properties to be transferred.

Marty road is a small privately maintained road, just off Summit road. Marty road is also a dead end road, there is no inlet or outlet other than that at Summit road. Parcels at the inlet to Marty

road entirely belong to the Loma school district and as you drive down the road about half a mile you find properties on one side of the road that belong to the Lakeside school district while properties on the other side of the road belong to the Loma school district. Altogether there are fifteen occupied parcels on Marty road that are currently allocated to the Lakeside school district. Since the only access to Marty road is from Summit road, these fifteen Lakeside properties effectively form an isolated pocket embedded in the Loma school district. With the transfer this pocket will be eliminated and will be seamlessly integrated into the Loma Prieta district.

Children from Marty road currently go to different schools, some go to Lakeside, some go to Loma, as assigned. While interdistrict transfers were readily granted that option was frequently exercised and most children from the Lakeside segment of Marty road were transferred to other school districts, mostly to Loma. We do not know about any example of children from the Loma side of Marty road transferring to the Lakeside school district. Looking at the petition from this angle, we just want to restore the status quo that there was until about five years ago.

Middle schoolers in the Lakeside School District are educated at the Lakeside “partner” Rolling Hills Middle School of the Campbell School District. Rolling Hills of Campbell is a reasonable good, much sought after middle school in Campbell, and my child will be guaranteed a spot by a Memorandum of Understanding between Lakeside and the Campbell school districts. However, for us to get to Rolling Hills we have to cross three school district boundaries: Lakeside / Loma / Los Gatos / Campbell. At the same time there is a perfectly functioning middle school in my own neighborhood at almost one third of the distance of Rolling Hills, that is the CT English of Loma.

Transportation of children to schools is not easy on the mountains. Lakeside elementary school is about 8 miles from our home and the Lakeside partner Rolling Hills middle school is about 13 miles from Marty road. Loma is about 5 miles from our home. Using private transportation delivering one child to Lakeside and another child to Rolling Hills takes about 50 MINUTES FOR THE MIDDLE SCHOOL CHILD, and it is a 31 mile roundtrip from home. In contrast, delivering children to the Loma schools takes about 10 minutes, it is about a 10 miles round trip from home.

Both districts provide some level of school bus service. The Loma school bus service is efficient both in the morning and in the afternoon, getting the children to their destination in a reasonable time. The Lakeside school bus service is not so. For example, Lakeside school ends at 2:40p, the Lakeside bus, delivering both middle and elementary school children is scheduled to arrive near the end of Marty road at 4:45p, that is 2 hours and 5 minutes after school ends. All in all, when using the Lakeside school bus service Marty road children spend about one hour and 45 minutes EXTRA time in transportation every day, as compared to the Loma bus transportation. This is how it was this year, and the year before it was similar.

The most common way for transportation to Lakeside involves route 17, a rather hazardous highway. Alternate route that is mostly used when highway 17 is not feasible is through Bear Creek road, a curvy one-lane-each-way mountain road. In fact, the hazardous nature of the transport routes between Lakeside and Marty road was cited by the Lakeside school board in the fall of 2009 as one reason for the limited school bus service of Lakeside in the direction of Marty road. Transportation to Loma is on a segment of Summit road that is as straight as it goes in the mountains, safer than any route to Lakeside.

Another aspect that affects the transportation of children to school and back is that the Loma schools form a compact entity, facilitating the simultaneous transport of elementary and middle school children, while the Lakeside elementary and middle schools are separated by about 9.5 miles.

As far as the communities are concerned, we do not feel we belong to the Lakeside / Black road / Las Cumbres community. My wife and I have never been to Black road for any other reason than school business, or school related issues, like play dates for our children.

On the other hand, we feel community identity with the Loma school. Not only nearly half of the properties on Marty road do already belong to the Loma school district but we take our pets to the vet near the Loma school, we go for small shopping to the supermarket near the Loma school, people from our road go to Churches on Summit road near the Loma schools. Our assigned voting place is at the Loma community center, and both the Redwood estates and Loma community centers are closer to us than the Lakeside community center. Our emergency response center is at the Loma school. If we go there we do not immediately know the people there. Vice versa, they do not know us. My wife is a pediatric nurse, she might be of help in an emergency and people would trust her help more if they knew her beforehand.

The transfer involves 17 properties altogether, less than 2% of the total number of Lakeside properties. This change should not put a noticeable burden on either school district. We understand that the receiving school district has sufficient capacity to accommodate the 5-10 children that may be expected from Marty road, next year this number is expected to be 5. We also understand that some tax money will be re-allocated with the transferred territory. This is the nature of territory transfer, the teaching responsibility will be accompanied by funds. Lakeside may have to re-adjust their budget to accommodate the perhaps 3% change in their income, that may not be easy but certainly feasible, especially, since they will also be relieved of some of their teaching responsibilities.

A few other points:

- The Lakeside and Loma schools are very similar academically, we are not trying to get into a better school with this transfer.
- Property values are not materially different in the two school districts, we are not seeking property value increase with this transfer.
- As the parcels proposed for transfer do not have immediate Lakeside neighbors sharing the way to school within about a mile the current transfer would NOT stimulate additional “piecemeal” transfers.

The “fabric of society is held together by children”, this was pointed out by the Lakeside superintendent during the Oct-7 2009 school board meeting while he was preparing his “talking points” for the upcoming parcel tax measure campaign. Marty road children go to different schools, they do not all know each other, they do not bring families together, our small community in Marty road is divided. Here we ask the Lakeside board to honor the superintendent’s words and support this territory transfer, let the Marty road children attend the same school.

Thank you for your attention.

Questions and Additional Comments

Member Steve Glickman
Asked how many students were in the area.

Petitioners stated that there would be 5 school aged next school year.

Member Phil Nielsen
Asked the petitioner what the reference to five years ago was about.

Mr. Szabo
Stated that five years ago interdistrict transfers (into Loma Prieta) were available when they moved five years ago. He stated that at that time five years ago another family in the area had transfers out of Lakeside.

Affected School Districts

Henry Castaniada, Superintendent, Loma Prieta Joint Union School District
Mr. Castaniada made the following statements:

- Lakeside is a quality school district – want to go on record saying that.
- Focused on two points; the social and emotional benefits.
- Loma supports the transfer of properties for the following reasons: we currently have families who live on Marty Road and would support these incoming families from Lakeside; family support and closeness is important in the mountain regions; the district offers transportation – district currently offers bus service to residents on Marty Road; our class sizes district wide are 22:1 so we can easily accommodate the five children if they come to our school district.
- Also looked at what are the children's needs. We work hard to align our academia with the high school district – critical that kids have a strong alliance with the high school they go to. Generally, the kids from Campbell do not have that same opportunity our children have because of articulation. We have established programs where kids can go during the school year to visit the high school and understand the transition.
- Four years ago the board requested that they look into providing opportunities for middle school students to transition easily into high school. Utilize former students on panels to help with the 8th grade transition.
- We have aligned our academia with the high school; district changed their academic program to match that of the high school.
- There is very little mobility in the mountains kids go from K-12 in the same schools; kids and families build long-term alliances.
- This transfer would benefit the kids because they can go K-8 and then move on to the high school.

Questions and Additional Comments

Member Nejleh Abed asked Mr. Castaniada which high school kids go to.

Mr. Castaniada stated they only go to Los Gatos High School. He also stated that Los Gatos High does a great job transitioning all students.

Member Rose Filicetti asked if the Loma Prieta Board passed a resolution on this issue.

Mr. Castaniada stated that the district has not passed a resolution – the board had a formal discussion on the issue but that at his request he did not want to take action on a resolution because it may appear to be an aggressive statement. Additionally, both Lakeside and Loma where in a parcel tax election and he personally met with a Lakeside parent to keep separate from the parcel tax issue any controversial issues that could occur or potentially have a negative impact on the parcel tax.

Loma Prieta's parcel tax did not pass.

Member Glickman asked a clarifying question that was Mr. Castaniada making the point that although Loma and Lakeside both feed into Los Gatos High School, Loma is a continuous cohort where Lakeside is not. **Mr. Castaniada** answered in the affirmative based on the articulation of the curriculum.

Member Glickman asked for clarification on whether this is a concern in the area to be transferred or a concern of the entire Lakeside district. **Mr. Castaniada** stated that he is not making the statement that this is a concern of the entire district but rather that families on Marty Road; bud he stated that ideally he would like to see Lakeside be a K-8 district.

Bob Chrisman, Superintendent/Principal, Lakeside School District
Stated that he doesn't believe he's heard a better argument for a territory transfer than what was presented by the petitioner, but that it was so good it could be used by about 50% of the Lakeside district based on where people live and what road they're on. Stated that at the public hearing at Lakeside a map will be used to indicate the layout of the Lakeside district. Feels the argument is generic to school district boundaries. Discussed the various geographic boundary lines and how they appear to be capricious but they were placed in specific areas so residents would know where they were in relation to the boundary.

Mr. Chrisman stated that Mr. Castaniada provided the perfect argument for the dissolution of the Lakeside district, he even brought up the cohort issue that's been mentioned before. No indication that there is a problem with kids who go from Lakeside to Rolling Hills to Los Gatos High School – stated that this group is a cohort. Mr. Chrisman stated that there are many different elementary and middle school cohorts that don't mix until they reach the high school.

Mr. Chrisman stated that most of his comments will come at the public hearing at the Lakeside district and ended by stating that he is open to other solutions on this issue including Loma and Lakeside talking about how to help parents who want to go to Loma without going through a territory transfer. He stated that this is not a revenue neutral transfer and that Lakeside could lose, by some estimates, $27,000 to $36,000 which is about as much as the Lakeside CBO makes. Mr. Chrisman also stated that the district will not be neutral or supportive of a territory transfer that has that large of an impact on the district.

Member Rose Filicetti asked if the Lakeside parcel tax was approved. **Mr. Chrisman** answered in the affirmative.

Member Teresa O'Neill asked if there were any discussions about merging with Loma Prieta School District.

Mr. Chrisman stated that there have been two to three studies about unifying the mountain area school districts with at least one issue going to vote and being turned down. He mentioned that there has been a lot of discussion about mergers but no action really taken. Mr. Chrisman stated that the communities are mountain communities made up of very independent people and they do not want changes made.

Member Steve Glickman asked what the current situation was for interdistrict transfers and also to discuss the potential impacts of the transfer on the district.

Mr. Chrisman stated that there are about five transfers into Lakeside but none from Loma Prieta although he would approve transfers out of Lakeside into Loma Prieta. He stated that in light of the current fiscal environment walking away from $27,000 or $36,000 would not make sense. Lakeside would lose but Loma Prieta would not lose anything. If the districts could come up with an equal share of the burden then he would be open to that solution but the way it is now Lakeside would lose funding and would lose parcel tax dollars – the district fought a big battle to get the measure approved.

Member Rose Filicetti asked what the arrangements are for future middle school students now that the surrounding districts are all basic aid.

Mr. Chrisman stated that the arrangement with Campbell continues; Lakeside pays $5,000/ students and that is an open-ended agreement with Campbell. The parcel tax will be used to continue the arrangement.

Public Comments

Wes Smith, Marty Road Resident stated that he is a longtime resident of Marty Road and was involved with the building of both the Lakeside and Loma Preita Schools. He feels that Loma Prieta has grown as a school district and is available to residents of Marty Road. Also, the access to Loma Prieta is easier for the residents of Marty Road.

Amy Hansman, Homeowner, Marty Road stated that she has a school aged student attending school in Loma. She lives at the end of a dead end road and feels isolated from other families in the Lakeside district and does not feel 100% within a community.

(At this point in the hearing the tape recording ended. The following statements are based on notes of staff.)

Nancy Cole, Marty Road Resident stated that she supported the transfer and was focused on the safety issues. Ms. Cole stated that the Loma Prieta district is closer and that in the event of an emergency parents could reach the school easier than if they had to travel to Lakeside.

Theresa Bond, Marty Road Resident stated that she has children attending school in Lakeside and that they are thriving at Lakeside. Stated that this issue is dividing the road. Also stated that there is not one school on the mountain she wouldn't send her children to. Stated that parents in Lakeside have known about the situation with the middle school. Ms. Bond stated that an interdistrict transfer agreement would solve this particular issue and that a transfer of territory would be too much and that it could be the loss of a teacher and the creation of another combination class. Ms. Bond ended by stating she knows parents in Loma Prieta as well as Lakeside.

Tom Harris stated that he was under the impression this situation of the road (Marty Road is a dead end road0 was a unique situation.

Steven Cox, Lakeside Parent and Board Member stated that he has students attending Lakeside and Rolling Hills Middle School and does not feel the situation is problematic; he feels satisfied with the Rolling Hills arrangement and the family has had an outstanding experience.

Tricia Rasmussen, Loma Prieta Board Member stated that Loma Prieta is a basic aid school district. Ms. Rasmussen also stated that the district is able to accommodate additional students at the Loma site.

There was some discussion around the history of middle school attendance for Lakeside students. It was mentioned that Lakeside students attended Fisher Middle School (Los Gatos Union) for approximately 20 years but due to the basic aid status Lakeside needed to look for another arrangement. It was also mentioned that Mr. Castaniada would be interested in taking Lakeside students but the district would need to be compensated.

Additionally, staff was asked to find the total number of parcels located on Marty Road in both the Lakeside and Loma Prieta districts.

Member Steve Glickman asked the petitioners why they were asking for the transfer request now although the situation has been long standing.

The public hearing was closed at 4:30 p.m.

The second public hearing began at 5:05 p.m. and was held at the Lakeside Joint School District.

The following County Committee members were present:
Rose Filicetti
Steve Glickman
Josephine Lucey
Pam Parker
Teresa O'Neill

SCCOE staff present:
Suzanne Carrig

Ms. Carrig stated that anyone could make comments regarding CEQA and the proposed exemption. No one made any comments regarding CEQA.

Petitioners

Andras Szabo, Chief Petitioner
Mr. Szabo reiterated his comments from the first public hearing (see pages 1-3 of these minutes) but also made some additional comments as follows:

- Stated that he disagreed with Mr. Chrisman's comments at the first hearing that approximately 50% of the Lakeside district is in similar circumstances to the families on Marty Road. Does not believe that there are other roads that are split between Lakeside and Loma Prieta.
- Noted that every month at the Lakeside board meetings the item of the budget was on the agenda yet there were no critical issues pointed out. Stated that the parcel tax provides a 20% increase to the Lakeside budget.
- Stated that the acceptance of interdistrict transfer into Lakeside appears contradictory to the budget problems the districts states they are having.
- School of choice issue – back five years or more when transfer were accepted most children on Marty Road have chosen to go to Loma Prieta or another district other than Lakeside. Stated that he does not know of any example of families in the Loma Prieta area of Marty Road requesting a transfer into Lakeside.
- Noted that Mr. Cox stated at the first hearing that the issue of the middle school is irrelevant but it is not. The middle school is 13 miles away and parents have to do that drive at least one to two times daily. We have no issue with Rolling Hills Middle School rather with the commute since the school is in Campbell and we reside on the mountain.
- Issue with transportation to Lakeside and from Lakeside to Rolling Hills, time is too long and children are either riding on the bus or waiting too long. Loma provides convenient transportation to their schools from Marty Road without long wait times.

Affected School Districts

Bob Chrisman, Superintendent/Principal, Lakeside School District
See attached statement.

Mr. Chrisman reviewed the Lakeside boundary map indicating that the boundaries are not drawn where people live but rather along grid lines, roads, and creek beds.

Member Rose Filicetti asked about the status of interdistrict transfers with Loma Prieta. **Mr. Chrisman** stated that, although it was before his time at Lakeside, he understood that Loma no longer accepted interdistrict transfer because of the basic aid status and they did not get the ADA dollars for the students that could come in.

Member Steve Glickman stated that it had been mentioned that now Campbell Union is a basic aid district Lakeside reimburses them for the cost of educating the middle school students. Mr. Glickman then asked if that was an option that could be considered with Loma.

Mr. Chrisman stated that he is open to discussion for the middle school students.

Mario Montana, Loma Prieta Board Member stated that Loma Prieta would be open to accepting interdistrict transfers as long as there is funding for those students coming in. That conversation would occur between the two superintendents.

Tricia Rasmussen, Loma Prieta Board Member stated that the district does not oppose the transfer of territory into Loma and she stated that there is no impact on Loma if the transfer is approved. Feels the residents of Marty Road should make the decision that impacts their kids. Ms. Rasmussen also stated that the schools have room for additional children.

End of tape.

Public Comments

Amy Hansman, Homeowner, Marty Road stated that she is in favor of the transfer to Loma Prieta. She disagrees with Lakeside's acceptance of interdistrict transfers in but won't allow kids out. Ms. Hansman stated that the cost of paying for five student interdistrict transfers would be less expensive than the potential loss of the money from the transfer of territory. She noted that the discussion of students shouldn't be just around middle school students but elementary students as well. Ms. Hansman stated that the budget should not be the primary issue here, rather community should be since Marty Road residents are isolated from Lakeside; as a single mother the current situation is difficult to plan with other families.

Nancy Cole, Marty Road Resident reiterated her statements from the first public hearing regarding the issues of safety and that it would be better for families to be close to their children in case of an emergency.

Les Niles, Lakeside Board Member stated that he is speaking as a parent of a Lakeside student and made the following statements:

- Lakeside is a wonderful and successful school district
- The school is the center of the mountain community
- The electorate expressed its support for the district when they passed the parcel tax.
- The parcel tax is necessary because the budget for the school is tight – the parcel tax doesn't make up for the additional expenses of the middle school, the budge is still taking a net hit.
- Any additional loss of property tax on a permanent basis would have a severe impact on the district.
- The district is open to other options; the goal is to provide the best service but to look out for the district as a whole.

Ralph Becker, Lakeside Resident/Parent stated that he worked on the parcel tax campaign. He is familiar with the district through his work with the parcel tax campaign. Mr. Becker stated that the source of the $36,000 includes the assessed value of the property proposed for transfer and the potential loss of parcel tax revenue. Losing this amount of money could be equivalent to losing half a teacher. Mr. Becker stated that is not about the five students but rather the district cannot lose the $36,000. Mr. Becker discussed the transfer request that came to the committee about two years ago and asked three questions: He stated that if you look at the families involved in the current petition there are three families in the territory and only one signed the petition and asked has the family requested an interdistrict transfer; he asked if Lakeside as an approved interdistrict transfer out of the district; and lastly he asked if Loma has one in.

Evan Lloyd, Marty Road Resident stated that he has children in Lakeside (one who attends Rolling Hills Middle School) and is the president of the Marty Road association. He is in favor of the transfer because he feels it is right for the community. Mr. Lloyd stated that there is a disconnect when your neighbor's kids go to different schools especially in a mountain community because residents rely on their neighbors for many things.

Fred Gormut, Former Lakeside Parent stated that he is a 30 year resident of the Lakeside district. He stated that there is some confusion of the financial issue – Lakeside is also a basic aid district. If transfer have no dollar affect on the school's income it can still have an impact on the class size and balance but these classrooms can be balanced by the district. He stated that when parcels transfer out that means revenue leaves the district. The cost of the middle school student would be equal at Rolling Hill or CT English but what the issue boils down to is that there is no advantage to losing parcels. Mr. Gormut mentioned that living in the region means that there is the issue of split communities and that is just part of living in a mountain community, there are splits in schools, water districts, fire, etc. Mr. Gormut stated that he understands people's desire to control where their kids go to school but he opposes this transfer request based on the financial costs to Lakeside.

Pam Parker, County Committee Chair asked for clarification regarding the geography of Lakeside and she also asked where a majority of the homes were located in the district.

Member Steve Glickman asked if any signature had been withdrawn from the petition. Staff answered in the negative.

Andrea Szabo, Chief Petitioner made the following comments:

- The request to transfer is about the kids who live on Marty Road and that there is nothing in the petition that kids have to go to Loma Prieta.
- Lakeside stated that they will not pay two different school districts for middle school student's transfers.
- Interdistrict transfers are just temporary solutions and the family wants something permanent.

The public hearing closed at 6:40 p.m.

SANTA CLARA COUNTY OFFICE OF EDUCATION

SANTA CLARA COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION

Minutes of the July 28, 2010 Meeting

1. Call to Order

The meeting was called to order by Chairperson Pam Parker at 4:00 p.m. at the Santa Clara County Office of Education.

County Committee Members Present:
Nejleh Abed
Rose Filicetti
Rich Garcia
Steve Glickman
Ernest Guzman
Josephine Lucey
Phil Nielsen
Teresa O'Neill
Pam Parker

County Committee Members Absent:
Nick Gervase
Buu Thai

Proposed Transfer of Territory from Lakeside Joint School District to Loma Prieta Joint Union School District (Marty Road)

CDE NOTE: Portions of minutes not pertinent to the Lakeside JESD to Loma Prieta JUESD territory transfer have been deleted.

4(b). Marty Road Transfer Feasibility Study, Condition 1
Ms. Suzanne Carrig summarized the feasibility study regarding the "adequate enrollment" condition [Education Code section 35753(a)(1)]. A motion that the Marty Road territory transfer proposal substantially meets the "adequate enrollment" condition was made by Member Abed and seconded by Member Filicetti. The motion was approved unanimously.

4(c). Marty Road Transfer Feasibility Study, Condition 2
Ms. Suzanne Carrig summarized the feasibility study regarding the "community identity" condition [Education Code section 35753(a)(2)]. A motion that the Marty Road territory transfer proposal substantially meets the "community identity" condition was made by Member Filicetti and seconded by Member Glickman. The motion was approved unanimously.

Member Pam Parker stated that the issue of travel and travel times to Lakeside was a concern to her.

4(d). Marty Road Transfer Feasibility Study, Condition 3
Ms. Suzanne Carrig summarized the feasibility study regarding the "property and facility division" condition [Education Code section 35753(a)(3)]. A motion that the Marty Road territory transfer proposal substantially meets the “property and facility division” condition was made by Member Garcia and seconded by Member Filicetti. The motion was approved unanimously.

4(e). Marty Road Transfer Feasibility Study, Condition 4
Ms. Suzanne Carrig summarized the feasibility study regarding the "racial and ethnic distribution" condition [Education Code section 35753(a)(4)]. A motion that the Marty Road territory transfer proposal substantially meets the “racial and ethnic distribution” condition was made by Member Filicetti and seconded by Member Abed. The motion was approved unanimously.

4(f). Marty Road Transfer Feasibility Study, Condition 5
Ms. Suzanne Carrig summarized the feasibility study regarding the "state costs" condition [Education Code section 35753(a)(5)]. A motion that the Marty Road territory transfer proposal substantially meets the “state costs” condition was made by Member Filicetti and seconded by Member Guzman. The motion was approved unanimously.

4(g). Marty Road Transfer Feasibility Study, Condition 6
Ms. Suzanne Carrig summarized the feasibility study regarding the "educational program" condition [Education Code section 35753(a)(6)]. A motion that the Marty Road territory transfer proposal substantially meets the “educational program” condition was made by Member Filicetti and seconded by Member Abed. The motion passed unanimously.

4(h). Marty Road Transfer Feasibility Study, Condition 7
Ms. Suzanne Carrig summarized the feasibility study regarding the "school housing costs" condition [Education Code section 35753(a)(7)]. A motion that the Marty Road territory transfer proposal substantially meets the “school housing costs” condition was made by Member Glickman and seconded by Member Nielsen. The motion was approved unanimously.

4(i). Marty Road Transfer Feasibility Study, Condition 8
Ms. Suzanne Carrig summarized the feasibility study regarding the "property values" condition [Education Code section 35753(a)(8)]. A motion that the Marty Road territory transfer proposal substantially meets the “property values” condition was made by Member Filicetti and seconded by Member Lucey. The motion was approved unanimously.

4(j). Marty Road Transfer Feasibility Study, Condition 9
Ms. Suzanne Carrig summarized the feasibility study regarding the "fiscal status" condition [Education Code section 35753(a)(9)]. A motion that the Marty Road territory transfer proposal substantially meets the “fiscal status” condition was made by Member Glickman and seconded by Member Filicetti. The motion was approved unanimously.

4(k). Marty Road Transfer Feasibility Study, Additional Criteria
The County Committee did not receive additional information.[Education Code section 35753(a)(10)].

4(l). Marty Road Transfer Proposal Approval/Disapproval

A motion to approve the transfer of territory was made by Member Abed and seconded by Member Lucey. The motion was approved unanimously.

4(m). Marty Road Transfer Proposal Election Area
A motion to designate the election area the area proposed for transfer was made by Member Abed and seconded by Member Filicetti. The motion was approved unanimously.

NOTE: The enrollment of Lakeside Joint School District is below 900 and the Lakeside district opposed the transfer request. For that reason, the election area must be expanded to the entire Lakeside school district. This information was not presented at the meeting but was communicated to the affected districts, the petitioners, and the county committee the following day.

9. Adjournment

The meeting was adjourned at 6:45 p.m.

Respectfully submitted by:

_____

Suzanne Carrig, Administrator, Special Projects

Staff to the County Committee

Committee discussion (CDE NOTE: Copied from transcripts of the meeting)

Rose Filicetti:
Stated that she looks at the impact on the kids in the neighborhood and a commute over an hour is too much especially if it affects the afterschool participation of the kids.

Teresa O'Neill:
Stated that she is torn by this request; however, one issue stands out and that is the travel situation. When she was on a board there were MOU's in place if the travel situation was a hardship. Ms. O'Neill stated that it is distressing to see there is no active management in helping the families. She believes in and wants more cooperation and possible consolidation between the affected districts. Stated that she needs to see the districts making the best use of public funds.

Nejleh Abed:
Stated that there is a clock on this issue and there is need of a permanent solution for the families. This issue may force the needed dialogue; Lakeside is a K-8 district and middle school students are affected for years. The parents and students need something more concrete.

Ernest Guzman:
Echoed member Abed's statements. He wanted to hear a timeframe on how the affected district might work on an MOU. Stated that he is saddened that this has been going on for so long and no other solutions have been worked out. This issue comes down to the children and the uniqueness of this neighborhood; he supports the transfer.

Steve Glickman:
Stated that there has been a lot of time for solutions but there's never been a solution. Stated that the committee is not here to decide on what happens to Lakeside but what happens for Marty Road – feels the petitioners made their case. Mr. Glickman concluded that the precedent stops with the committee and that the resident made a good case for support of the transfer.

Jo Lucy:
Her support is based on the arguments presented by the Marty Road residents. The County Committee has strongly urged Lakeside to look at the middle school issue and urged them to look at academic programs and the health of the district. She urged the district again to look at these issues.

Rich Garcia:
As a school board member, Mr. Garcia stated that he is concerned about the cost issues. However, he appreciates the parent's comments and is focused on the children. Feels compelling arguments were made. Mr. Garcia stated that he understands the financial issues of the district but feels Lakeside will make it through and supports the transfer.

Pam Parker:
Stated that she also is a board member and takes this issue very seriously; however, she sees this as a unique situation especially the driving issue and travel time. She concluded that the parents made a compelling case to transfer.

Phil Nielsen:
Noted that it was significant that not a single Lakeside board member was present for the meeting.

TO: **STATE BOARD OF EDUCATION**

FROM: **ANDRAS AND ANDREA SZABO, CHIEF PETITIONERS IN THE MARTY ROAD TERRITORY TRANSFER PETITION**

SUBJECT: **RECENT DEVELOPMENTS MATERIAL TO THE MARTY ROAD TERRITORY TRANSFER**

Date: **2/12/2012**

To the best knowledge of the Chief Petitioners there is no material change in the nine categories based on which the Santa Clara County Committee on School District Organization has approved the territory transfer with a unanimous vote. However, the following developments, material to the present case, have taken place:

The Lakeside School Board has appealed the decision.

The former Lakeside Superintendent / Principal resigned mid-year.

Opponents of the Territory Transfer openly discuss that passing of the transfer would result in declining real estate values in the rest of the Lakeside District.

THE CHIEF PETITIONERS RESPECTFULLY ASK THE MEMBERS OF THE STATE BOARD OF EDUCATION TO UPHOLD THE DECISION OF THE SANTA CLARA COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION AND IF ELECTION IS DEEMED NECESSARY THEN LIMIT THE ELECTION AREA TO THOSE THAT ARE DIRECTLY AFFECTED BY THE OUTCOME, AND THAT IS MARTY ROAD.

The Lakeside School Board requested that the Santa Clara County Committee on School District Organization re-hear the territory transfer case - the request was rejected.

Unsubstantiated allegations were raised by opponents of the territory transfer.

The Chief Petitioners have been vilified by the Lakeside School Board in front of the community of the Lakeside School District.

The Chief Petitioners have removed their children from the jurisdiction of the Lakeside School District for the children’s sake and benefit.

The Lakeside School Board reluctantly made arrangement for middle school children to attend the C.T. English Middle School.

The Lakeside School Board selected new members, including member of the only opposing family on Marty road, Ms Theresa Bond.

The Lakeside School District discontinued school bus transportation.

The Lakeside School Board has appealed the decision of the Santa Clara County Committee on School District Organization.

Against the recommendations of the Superintendent / Principal at that time, Mr. Robert Chrisman, and against all the recommendations of county and state officials, the Lakeside School Board appealed the decision of the County Committee.

A week after the Board's rejection of the Superintendent's advice a closed session board meeting was held discussing matters personal to the superintendent and another three week later the mid-year resignation of the superintendent was announced. Currently Ms. Elizabeth Bozzo is the Lakeside School District superintendent / principal.

While Lakeside advocates repeatedly maintained that the district wants the tax income from the homes to be transferred to the Loma Prieta School District, the Lakeside School District spends approximately $15,000 per student per year on students at the Lakeside Elementary School campus. In recent years, when financially strapped school districts all over California requested permission to raise the number of students per classroom, Lakeside Elementary School maintained some classrooms with as few as 12 students. The Lakeside Board recently made a decision to deny new inter-district transfers into the Lakeside School District.

Lakeside advocates take pride in the high level of community loyalty and support for the school - annual fundraising nears $100,000 at the school which educates less than 90 students in the Lakeside campus. On the other hand, they claim in the appeal that the territory transfer would create a "dangerous precedent" of territory transfers out of the Lakeside School District, apparently fearing that without artificial barriers the District could not be held together.

The "dangerous precedence" argument is used by opponents to the territory transfer but they failed to identify, as no such exists, another area in the school district where an isolated section of neighborhood is divided between two school districts, is so

distant from the Lakeside School Campuses, and is so much closer to another school district as Marty road is.

The Lakeside School Board's appeal entirely dismisses the need of children on Marty road. Lakeside Elementary and middle schools may be the optimal / ideal educational institute for children living in some parts of the Lakeside School District which are located closer to the Lakeside campus and have no alternative educational facilities for elementary or middle school children at reasonable proximity. For families on Marty road community however another, integrated elementary / middle school is at a much closer location, to which the territory transfer is requested. For families on Marty road the optimal educational institutes are in the Loma Prieta School District, into which the transfer is requested.

Opponents of the Territory Transfer openly discuss that passing of the transfer would result in declining real estate values in the rest of the Lakeside District.

The first issue Lakeside voters have been conditioned to worry about is their property values when it comes to any issues about the school. The value of their home is dear to everybody, not only for those with children in or heading to school. Raising the fear of loss of home equity is the first thought that comes to peoples mind and proponents of the Lakeside school know how to play with people's fear.

Opponents of the territory transfer argue that the Lakeside District's best financial interest is to retain Marty road within the district, and maintain the perception that the quality of the school would significantly degrade if the tax income Marty road was lost.

During the early 2010 the Lakeside School District asked the voters to approve a parcel tax. The parcel tax committee, members of which were Mr. Michael Gull (recently resigned Lakeside Trustee) and Mr. Ralph Becker (husband of current Board Member Ms. Linda Kelly), run the campaign heavily relying on the notion that if the school quality decreases that home in the district would loose value considerably (EXHIBIT….). The connection between the school quality and home values is strongly imprinted in the Lakeside District electorate, and this perceived financial interest would likely influence the choice of most voters beyond the interest of the children on Marty road, that for most of the Lakeside District electorate is distant. Under these circumstance the less than 30 voters on Marty road would have little chance convincing the about 1200

financially motivated votes in the Lakeside District. You may uphold the standing decision on the Marty Road Territory Transfer, however the majority of the Lakeside District electorate would very likely ignore the need or our small community and the our community including the children on Marty road would loose.

THE CHIEF PETITIONERS RESPECTFULLY ASK THE MEMBERS OF THE STATE BOARD OF EDUCATION TO UPHOLD THE DECISION OF THE SANTA CLARA COUNTY COMMITTEE ON SCHOOL DISTRICT ORGANIZATION AND IF ELECTION IS DEEMED NECESSARY THEN LIMIT THE ELECTION AREA TO THOSE THAT ARE DIRECTLY AFFECTED BY THE OUTCOME, AND THAT IS MARTY ROAD.

Lakeside School Board requested that the Santa Clara County Committee on School District Organization re-hear the territory transfer case - the request was rejected.

In November a preliminary hearing was held at the Santa Clara County Committee on School District Organization responding to the request of the Lakeside School Board to the Committee to re-hear the territory transfer case. After an about one hour hearing of argument from both sides the Committee dismissed the request.

Repeated recommendation from members of the Santa Clara County Committee on School District Organization to the school was to focus on the real problems in the District and not on a fifteen home territory transfer.

Unsubstantiated allegations were raised by the opponents of the territory transfer.

During the preliminary hearing at the Santa Clara County Committee on School District Organization in November 2011 an accusation was raised by Ms. Theresa Bond, resident of Marty road living in the only household that opposes the territory transfer, that the transfer request is driven by “prominent realtors living on Marty road”.

Unquestionably, realtors live on Marty road, as they live on other parts of the Lakeside and other school districts, some actively using their realtor identity to participate in Lakeside‘s political events. Realtor Barbara Harriman of Las Cumbres (not on Marty road) in the Lakeside School District actively canvassed in a local magazine (Mountain Network News) for the Lakeside School District parcel tax measure in 2009 (EXHIBIT A).

The role of the realtors on Marty road in the territory transfer request is no more than that of any other, non-chief petitioner residents of Marty road. The realtors on Marty road DID NOT initiate and DO NOT drive the transfer request. The territory transfer petition is a community effort with approval and support of about 90% of the voters on Marty road. In fact, Ms. Bond herself knew about the territory transfer earlier than any of the two real estate agents living on Marty road, as Ms Bond was involved in the initial planning of the transfer request until she changed her position on it.

Opponents of the territory transfer are eager to link the Marty road territory transfer with the word 'real estate' in hope that this would trigger denial of the request. The pertinent section of the educational code states that the territory transfer should not be designed for the purpose of real estate gain and no significant real estate gain should be expected from the territory transfer, both of which stands for the current territory transfer request. To the best knowledge of the Chief Petitioners, and the same was agreed by the Santa Clara County Office of Education, there is know significant difference in the real estate prices in the two school districts, the transfer should not affect the real estate value of the transferred home. Also, the schools in the original and destination school districts are comparable in performance, the Loma schools have been consistent with their API scores in the low 900 points while the Lakeside Elementary raised it's API score over 960 last year, gaining of about 20 points in two consecutive years, each year. No gain in real estate value could be and is expected from Marty road joining the Loma Prieta School District.

The sole purpose of the territory transfer are now as were always:
Access to the closest school.
Unification of the two sides of Marty road into the same school district.

The Chief Petitioners have been vilified by the Lakeside School Board in front of the Lakeside District public.

While the county official documents and discussion always referred to the territory transfer as the Marty Road Territory Transfer, the Lakeside School Board agenda repeatedly listed meetings discussing litigation associated with the "Szabo" territory transfer:

Oct-19, 2011 Board Meeting agenda (EXHIBIT B)

9. ADJOURN TO CLOSED SESSION 45 MINUTES
Govt. Code § 54956.9(a): CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Lakeside Joint School District Appeal to the State Board of Education regarding Szabo Territory Transfer Request.

Nov-8, 2011 Board Meeting agenda (EXHIBIT C)

9. ADJOURN TO CLOSED SESSION 45 MINUTES
Govt. Code § 54956.9(a): CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION Lakeside Joint School District Appeal to the State Board of Education regarding Szabo Territory Transfer Request.

The wording of the above board meeting agendas imply, in line with rumors circulated in the Lakeside School District community, that the territory request is backed only by the family of the Chief Petitioners. In reality about 90% of the households either signed the petition or supported it with letters or personal appearance at the hearings. Only the Fafard / Bond family at Marty 780 are known to oppose the transfer. During all the hearings so far the motivation of Mr. Fafard / Ms. Bond has not been clarified besides that they consider Lakeside and excellent school and they whish to support it.

There is no litigation known to the Chief Petitioners associated with the Marty road territory transfer, it appears that the Lakeside School Board was eager to include the names of the Chief Petitioners and the word “litigation” in the same sentence and publish documents accessible to the public.

The information printed in the School Board Meeting Agendas reached the broader Lakeside community: letters of protest by people - who based on the good reputation of their profession could be considered as community leaders, signed as medical doctors, husband and wife - have been addressed to the Santa Clara Office of Education opposing the “Szabo” territory transfer (EXHIBIT D).

This form of attack is a known tactic in Lakeside School District. During a previous territory transfer case petition out of the Lakeside School District by chief petitioner Elise Stassart, that was heard by the State Board in September 2009, negative reference to the petitioners was published in the Lakeside school letter, printing of which is funded partially by the Stassarts through property tax. The reference resulted in a court case of the Stassart's objection to retaliation (EXHIBIT E):

> Case 5:08-cv-01511-JF Document 29 Filed 06/09/2008
> IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CA
>
> Plaintiffs Philippe and Elise Stassart, along with minor child, pursuant to 28 CFR Sec.36.206,
> respectfully submit to the Court this OBJECTION TO RETALIATION.
>
> *www.findforms.com/pdf_files/cand/201453/29.pdf*

In addition to the adults opposing the territory transfer Lakeside advocates brought approximately 30-40 children from both the Lakeside campus and from the middle schools to the county board meeting in November of 2011. While most of the children did not fully understand why they were there, they certainly went home with an experience that the Chief Petitioners are not good people as they oppose their parents. Parading the Lakeside children, like during the above event, condition the Lakeside children against the children of the Chief Petitioners, further increasing the gap between the Chief Petitioner's family and the public of the Lakeside District.

The Chief Petitioners have removed their children from the jurisdiction of the Lakeside School district for the safety of their children.

After the territory transfer proceedings started the Chief Petitioners felt compelled to remove their children from the Lakeside School District.

Two of the three major opponents of the territory transfer Mr. Michael Gull (Lakeside Trustee 2009 - 2011) and Mr. Ralph Becker were volunteers at the Lakeside school, having everyday access to the children of the Chief Petitioners:

Mr. Becker participated weekly typing lesson in the class of Alexandra Szabo, 4th grader at that time, during which the part of the class was separated and under Mr. Becker's instructions who was able to conduct one-on-one conversation with the children. Mr. Becker aggressively questioned the integrity of the Chief Petitioners during the county level hearings, and the Chief Petitioners do not wish to see their daughter being confused by an adult who is unqualified to teach children and had ill feelings about the parents' actions. Mr. Becker, continues to be involved with the opposition of the territory transfer as he maintains a web site (2/12/2012) where he posts maps related to the Marty Road Territory Transfer at:

http://www.lr.los-gatos.ca.us/lakeside/

Volunteers at the Lakeside Elementary School routinely have one-on-one conversation with children, as can be testified by one of the Chief Petitioners, Andrea Szabo, who herself volunteered in the Lakeside Kindergarten 4 hours a week for the length of the school year of 2007-08.

Mr. Gull, who weekly helped with the Friday school lunch and performed other activities such as working on the office computer where he potentially had access to confidential information, has exhibited aggressive behavior primarily addressing one of the Chief Petitioner, Andras Szabo, but in the presence of his daughter Alexandra Szabo, 4th grade at that time, who has been scared of Mr. Gull ever since.

The Chief Petitioners have sent e-mail request to the Lakeside superintendent Mr. Chrisman during the early summer of 2009, requesting that the activities of these volunteers be distanced from their children. After a short e-mail exchange (EXHIBIT F) the superintendent handled the issue dismissively until the start of the next school year when he was reminded of the absence of the Szabo children by one of the Lakeside parents. The phone conversation between Mr. Chrisman and Chief Petitioner Mr. Szabo that followed did not lead to any resolution, and Mr. Chrisman found necessary to send us a letter to the Chief Petitioners explaining his behavior (EXHIBIT G). Although some facts were subtly but materially distorted in the letter the Chief Petitioners did not

respond to his letter until about a month later when Mr. Chrisman's resignation has already been announced (EXHIBIT H).

Both children of the Chief Petitioners - six year old son and nine year old daughter at the start of the territory transfer proceedings - have credibly recounted events each in detail with names how their six ("your parents are mean to the school") and nine year old classmates ("your parents should stop the what they are doing because it costs the school a lot of money") made derogative comments about their parents. The Chief Petitioners do not wish to expose their children to such incidents.

Currently the children of the Chief Petitioners are enrolled into the Ocean Grove (public) Charter School of California. Because of the continued hostile behavior of some Lakeside patrons the children will not be returned into the Lakeside School District.

Lakeside School Board reluctantly made arrangement for middle school children to attend the C.T. English Middle School.

Under pressure from the Santa Clara County Committee on School District Organization the Lakeside School Board reluctantly agreed to allow middle school children from the Lakeside School District to attend middle school at the C.T.English Middle School (CTE) in the Loma Prieta School District, as an alternative option to the Rolling Hills Middle School (RHMS) of the Campbell School District (RHMS), that traditionally served the Lakeside middle school children. The new option is being exercised by a growing number of Lakeside families from all over the Lakeside School District, approximately 50% enrollment into CTE was forecast for next school year during the January 2012 regular Lakeside School Board meeting. However, education at CTE cost about $7,000 annually per student while education at RHMS cost about $5,000 annually per child and the discussion on how families should be discouraged from CTE is a recurring topic at the Lakeside School Board meetings. Education at the Lakeside campus for elementary school children cost near $15,000 per child, annually.

As the result current austerity measures at the state level, state funds to the Lakeside School District has been cut and elimination of the CTE option as one of the possibilities for budget cut at the school level has been raised during the January-2012 School Board meeting. Since the CTE option is a inter-district transfer, it can be

eliminated by a majority vote of the Lakeside School Board and this vote can be expected when the territory transfer proceedings end.

The Lakeside School Board elected new members, including member of the only opposing family on Marty road, Ms Theresa Bond.

In November of 2009 Mr. Michael Gull replaced school board member Ms. Ann Marie Pate whose appointment expired that time. Mr. Gull's nomination was not contested so that the Lakeside District was able to bypass the popular election process.

In November 2009 Ms. Theresa Bond, resident of the only family opposing the territory transfer living on Marty road replaced the resigning member of the Lakeside Board Mr. Philip Nelson. Ms. Bond was not popularly elected into the school board, but was selected by the sitting Board members who widely opposed the territory transfer. The selection of Ms. Bond onto the board appears to be a political move by the Lakeside School Board, in the hope to strengthen the image between Marty road and the Lakeside School District. In reality, the majority of Marty road favors the territory transfer - and for the opposition of Ms. Bonds family so far we have not found rational explanation or any understanding.

In January Ms. Linda Kelly, wife of one of the most outspoken opponent of the territory transfer, Mr. Ralph Becker replaced one of the resigning board member, Mr. Michael Gull. The husband of Ms. Kelly, Mr. Ralph Becker an active opponent of the Marty road territory transfer does not appear eligible for board membership - in 2009 he was still not listed as a registered voter in the district of his residence for over ten years.

Based on the changes during the past years the Lakeside School Board is expected to maintain its fierce opposition to the Marty Road Territory Transfer.

All five board members of the Lakeside School District have children in the District, there is no board member in the District without direct personal motivation.

The Lakeside School District discontinued school bus transportation.

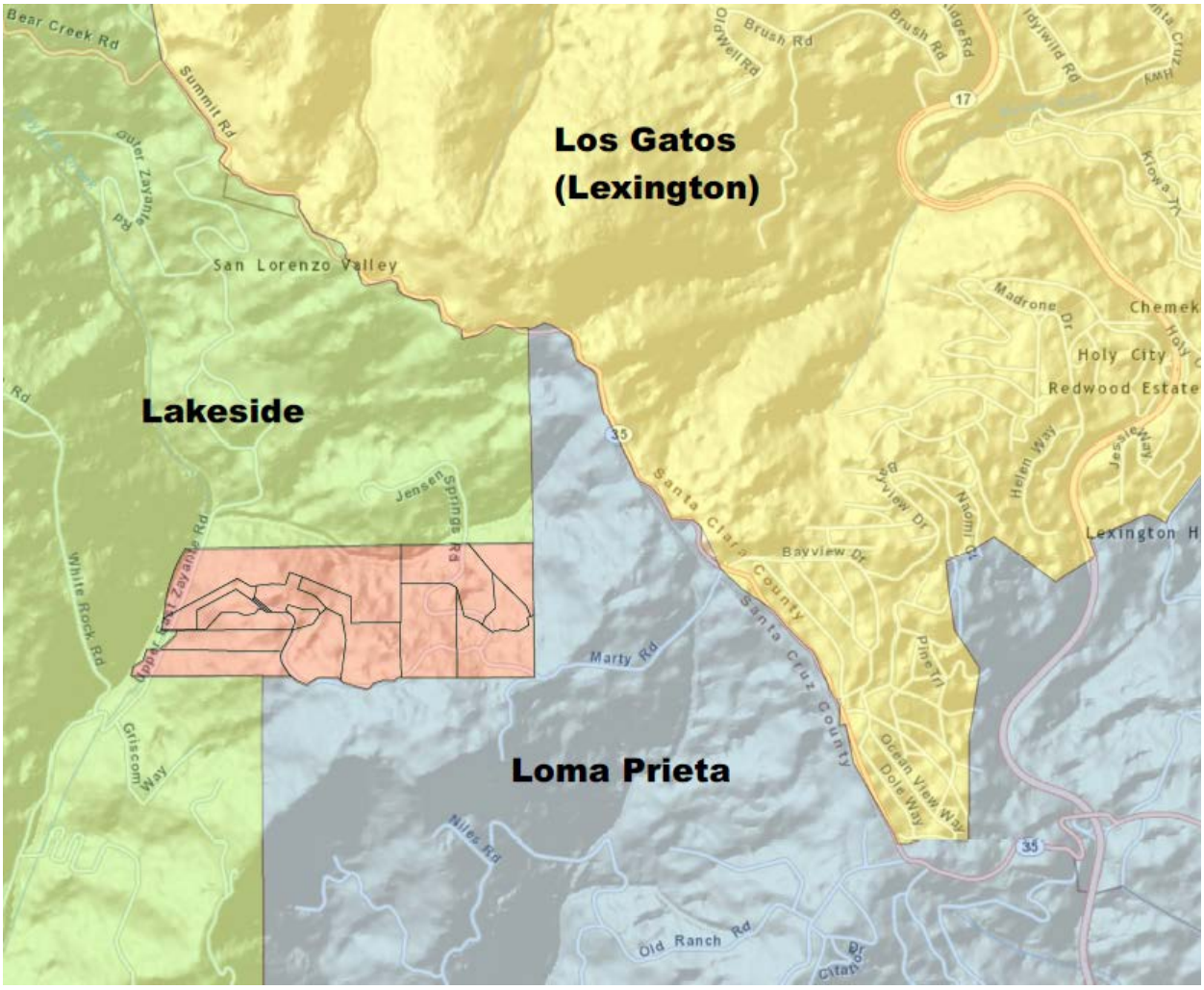
Due to austerity measures at the state level funds supporting school bus transportation were cut from the Lakeside School District and consequently school

transportation is eliminated at the Lakeside School District. This puts even more burden on homes far from the Lakeside campus and emphasizes the importance of living close proximity to the school. Lakeside Elementary School is located over 8 miles from Marty road, and Rolling Hills Middle School is about 13 miles from Marty road and about 7 miles from the Lakeside elementary school campus. In contrast, the schools of the Loma Prieta School District are located on the same campus about 4 miles from Marty road.

When the state so bluntly recognizes and admits the cost associated with transportation it would certainly be unfair to burden private families with unnecessary transportation for sake of maintaining jobs and a luxurious school for another set of privileged families. The Chief Petitioners are asking the state to uphold the decision of the Santa Clara County Committee on School District Organization on the Marty Road Territory Transfer.

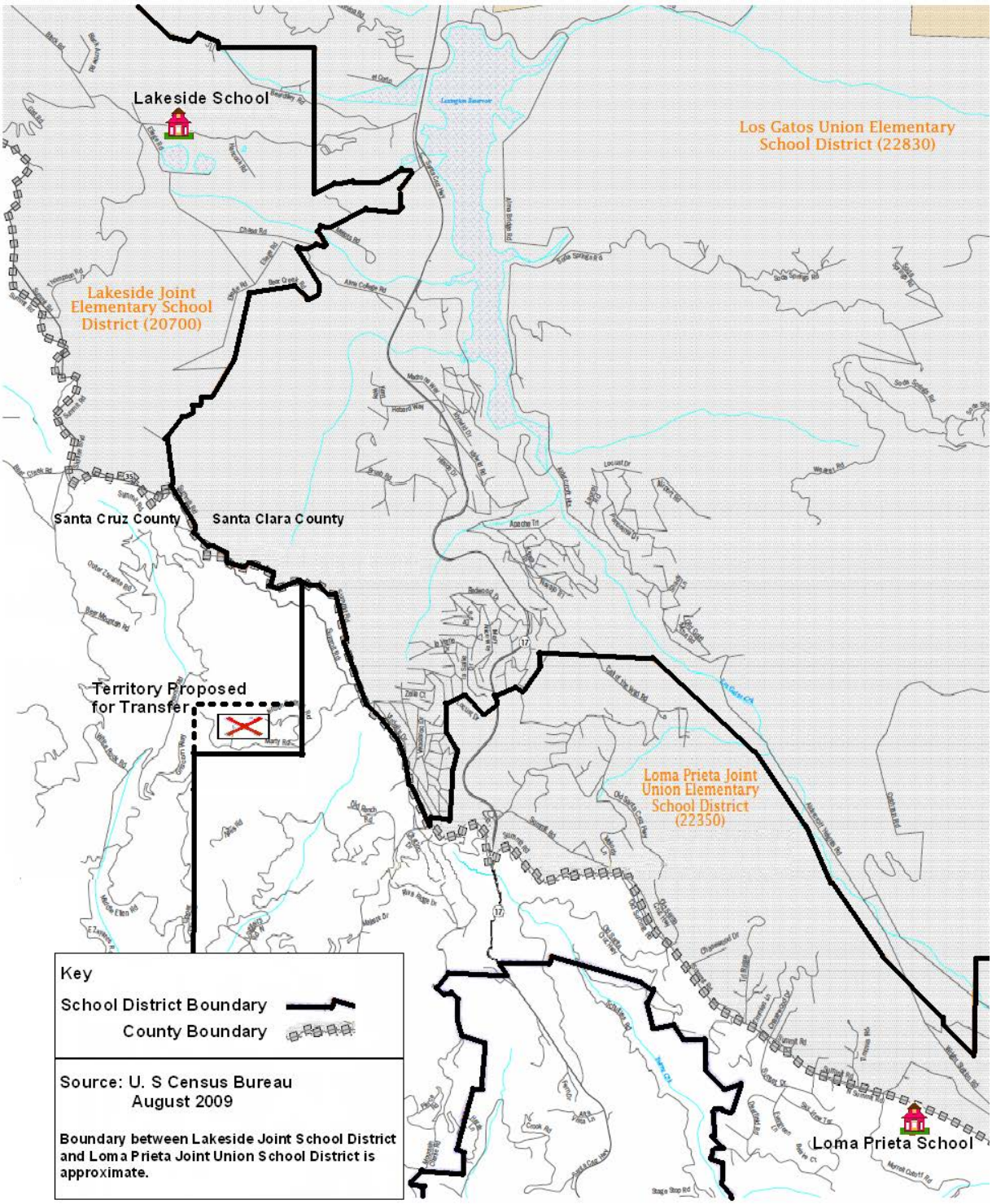
MAPS OF PETITION AREA AND SURROUNDING TERRITORY

Topographical Map



Source: Lakeside Joint Elementary School District

Territory Proposed for Transfer, Affected School Districts, and School Sites



NOTICE OF PUBLIC HEARINGS

ON:

A PROPOSED TRANSFER OF TERRITORY
FROM
LAKESIDE JOINT SCHOOL DISTRICT
TO
LOMA PRIETA JOINT UNION SCHOOL DISTRICT

The Santa Clara County Committee on School District Organization will conduct a public hearing to obtain public response to a request to transfer 15 parcels from Lakeside Joint School District to Loma Prieta Joint Union School District.

A public hearing will be held at the following locations and times:

Thursday, May 27 2010 3:30 p.m.
Loma Prieta Joint Union School District
Community Center/Conference Room
23800 Summit Road
Los Gatos

Thursday, May 27, 2010 5:30 p.m.
Lakeside School
19621 Black Road
Los Gatos

For more information regarding the process and public hearings,
contact Suzanne Carrig at (408) 453-6869.

DESCRIPTION OF PETITION TO TRANSFER TERRITORY FROM LAKESIDE JOINT SCHOOL DISTRICT TO LOMA PRIETA JOINT UNION SCHOOL DISTRICT

Education Code Section 35705.5 requires that the County Committee on School District Organization make available to the public and to the governing boards affected by the petition a description of the petition, including:

1. The rights of the employees in the affected districts to continued employment.
2. The revenue limit per unit of average daily attendance for each affected district and the effect of the petition, if approved, on such revenue limit.
3. Whether the districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.
4. Whether the governing boards of any proposed new district will have five or seven members.
5. A description of the territory or districts in which the election, if any, will be held.
6. Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.
7. Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by voters of the entire district.
8. A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.
9. A description of when the first governing board of any new district will be elected and how terms of office for each new trustee will be determined.

Description of Petition

The proposal requests a transfer of territory from San Jose Unified School District to Santa Clara Unified School District. A map of the territory proposed for transfer and a list of the Assessor Parcel Numbers (APNs) are attached.

The request has been made by the following school districts:
Andras and Andrea Szabo
1010 Marty Road
Los Gatos, CA 95033

1. *The rights of the employees in the affected districts to continued employment:*

Not applicable to the current proposal. The rights of the employees to continued employment will not be affected by the proposed territory transfer.

2. *The revenue limit per unit of average daily attendance for each affected district and the effect of the petition, if approved, on such revenue limit.*

According to records maintained by the Santa Clara County Office of Education's District Business Services, the base revenue limits per unit of average daily attendance for the affected school districts (as of May 2010) are as follows:

Lakeside	$6,894.62
Loma Prieta	$6,075.76

Records indicate that there are 5 elementary students in the area proposed for transfer. New blended revenue limit for Loma Prieta would be $6,085.75.

3. *Whether the districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.*

Not applicable to the current petition.

4. *Whether the governing boards of any proposed new district will have five or seven members.*

Not applicable to the current petition.

5. *A description of the territory or districts in which the election, if any, will be held.*

If an election is required, the election area will be the area proposed for transfer. This specification is subject to change pending information obtained in the public hearings [EdC § 35705], completion of the feasibility report [EdC § 35710], and approval of the petition [EdC § 35706].

Pursuant to the provisions of California Education Code section 35710.1, notwithstanding any other provision of law, an election may not be called to vote on a petition to transfer territory if the election area for that petition, as determined pursuant to Section 35732, is uninhabited territory as described in Section 35517.

6. *Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.*

Not applicable to the current petition; the petition does not propose the creation of any new district(s).

7. *Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by voters of the entire district.*

Not applicable to the current petition.

8. *A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.*

The area proposed for transfer contains no public school property or buildings. The plans and recommendations of the County Committee on School District Organization would stipulate the division of any other property, funds or obligations (except bonded indebtedness) affected by the proposed transfer. The County Committee may use any equitable means to divide the property, funds and obligations, including assessed valuation, average daily attendance (ADA), or value and location of property. [EdC §§ 35560, 35736]

If the territory is transferred, it will drop any liability for outstanding bonded indebtedness of the district of which it was formerly a part and assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part. [EdC § 35575]

Provisions for the exchange of property tax revenue are set forth in Revenue and Taxation Code Section 99 (i).

9. *A description of when the first governing board of any new district will be elected and how terms of office for each new trustee will be determined.*

Not applicable to the current petition; this petition does not propose the creation of any new district(s).

APN	Address
091-201-04	125 Jensen Springs Rd.
091-201-03	205 Jensen Springs Rd.
091-201-02	230 Jensen Springs Rd.
091-201-05	310 Jensen Springs Rd.
091-081-45	780 Marty Rd.
091-081-44	790 Marty Rd.
091-081-09	910 Marty Rd.
091-081-04	1010 Marty Rd.
091-081-18	1110 Marty Rd.
091-081-36	Driveways
091-081-37	Driveways
091-081-38	1140 Marty Rd.
091-081-40	1225 Marty Rd.
091-081-43	1215 Marty Rd.
091-081-42	1185 Marty Rd.
091-081-21	1075 Marty Rd.
091-081-07	1055 Marty Rd.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 23

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
PUBLIC COMMENT. Public Comment is invited on any matter **not** included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.	☐ **Action** ☒ **Information** ☐ **Public Hearing**

SUMMARY OF THE ISSUE(S)

This is a standing item on the agenda, which allows the members of the public to address the board on any matter that is not included in this meeting's agenda.

RECOMMENDATION

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

BRIEF HISTORY OF KEY ISSUES

Not applicable.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Not applicable.

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Not applicable.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 24

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The Elementary and Secondary Education Act (ESEA) provides federal funding that may be available to local educational agencies (LEAs) (defined as districts, county offices of education, and direct-funded charter schools) for a variety of programs. Currently, only new direct-funded charter schools submit an LEA Plan as part of the application for ESEA funding. California Department of Education (CDE) program staff review LEA Plans for compliance with the requirements of ESEA before recommending approval to the State Board of Education (SBE).

RECOMMENDATION

The CDE recommends that the SBE approve nine direct-funded charter school LEA Plans listed in Attachment 1.

BRIEF HISTORY OF KEY ISSUES

The federal ESEA Section 1112(e)(2) states that the state educational agency (SEA) shall approve an LEA's Plan if the SEA determines that the LEA's Plan is designed to enable its schools to substantially help children meet the academic standards expected for all children. As a requirement for receiving federal funding sub-grants for ESEA programs, the local school board and the SBE must approve the original LEA Plan. Subsequent approval of revisions to LEA Plans is made by the local school board and kept on file with the original LEA Plan. The LEA Plan includes specific descriptions and assurances as outlined in the provisions included in ESEA.

The purpose of the LEA Plan is to develop an integrated, coordinated set of actions that LEAs will take to ensure that they meet certain programmatic requirements, including student academic services designed to increase student achievement and performance, coordination of services, needs assessments, consultations, school choice, supplemental services, services to homeless students, and others as required.

CDE program staff review LEA Plans for compliance with the requirements of the ESEA including evaluation of goals and activities designed to improve student performance in reading and mathematics; improve programs for English learner students; improve professional development and ensure the provision of highly qualified teachers; ensure that school environments are safe, drug-free, and conducive to learning; and promote efforts regarding graduation rates, dropout prevention, and advanced placement. If an LEA Plan lacks the required information, CDE program staff works with the LEA to ensure the necessary information is included in the LEA Plan before recommending approval.

Following initial CDE review and SBE approval, all LEAs are expected to annually review their Plans and update them as necessary. Any changes to the LEA Plan must be approved by an LEA's local governing board.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since the current LEA Plan process was developed in July 2003 as a requirement of the ESEA, the SBE has approved 1,641 LEA Plans.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to state operations.

ATTACHMENT(S)

Attachment 1: Direct-Funded Charter Schools Recommended for State Board of Education Approval (1 Page)

Attachment 2: Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans (1 Page)

Direct-Funded Charter Schools Recommended for State Board of Education Approval

Local Educational Agency Name	County-District-School Code	Academic Performance Data
ACE Charter High School	43-69427-0125617	None available; will open August 2012
Ambassador Phillip V. Sanchez Public Charter School	10-62380-0124982	None available; opened July 2011
Camino Science and Natural Resources	09-61846-0123125	None available; opened August 2011
Diego Valley Public Charter School	37-68163-0124271	None available; opened July 2011
KIPP Philosophers Academy	19-64733-0125609	None available; will open September 2012
KIPP Scholar Academy	19-64733-0125625	None available; will open September 2012
Rocketship Seven Elementary	43-10439-0125799	None available; will open August 2012
Rocketship Six Elementary	43-10439-0125781	None available; will open August 2012
Wisdom Academy for Young Scientists	19-10199-0112730	See Attachment 2

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Wisdom Academy for Young Scientists CDS CODE: 19-10199-0112730	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (67.6%)	Met 2011 AYP Criteria?	Percent At or Above Proficient (68.5%)	Met 2011 AYP Criteria?	2010 Base API	2011 Growth API	Met 2010–11 Growth API Targets***
Schoolwide	**No, met 9 of 13**	**36.7**	**No**	**54.4**	**Yes (Y3)**	**879**	**736**	**Yes**
African American or Black (not of Hispanic origin)		22.7	**	36.4	**			
American Indian or Alaska Native		--	--	--	--			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		36.0	No	68.0	Yes (Y2)			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		--	--	--	--			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		36.1	No	54.2	No			
English Learners		25.0	**	40.0	**			
Students with Disabilities		0.0	**	16.7	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2011 Growth API” score of 710 OR “2010–11 Growth” of at least one point.

Y3 = Passed by using 3-year average: Schools, LEAs, or subgroups that have not met 2011 AYP participation rate or percent proficient AMO criteria using a one-year formula met the participation rate or AMO using a two-year formula.

Y2 = Passed by using 2-year average: Schools, LEAs, or subgroups that have not met 2011 AYP participation rate or percent proficient AMO criteria using a one-year formula met the participation rate or AMO using a two-year formula.

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 25

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Approval of 2011–12 Consolidated Applications.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Each local educational agency (LEA) must submit a complete and accurate Consolidated Application (ConApp) each fiscal year in order for the California Department of Education (CDE) to send funding to LEAs for any or all of the categorical funds contained in the ConApp for which they are eligible. The ConApp is the annual fiscal companion to the LEA Plan. The State Board of Education (SBE) is asked to annually approve the ConApps for more than 1,580 school districts, county offices of education, and direct-funded charter schools.

RECOMMENDATION

The CDE recommends that the SBE approve the 2011–12 ConApps submitted by LEAs in Attachment 1.

BRIEF HISTORY OF KEY ISSUES

Each year, the CDE, in compliance with *California Code of Regulations, Title 5*, Section 3920, recommends that the SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs. Prior to receiving funding, the LEA must also have a SBE-approved LEA Plan that satisfies the SBE's and CDE's criteria for utilizing federal and state categorical funds.

Approximately $2.9 billion of state and federal funding is distributed annually through the ConApp process. The 2011–12 ConApp consists of six federal programs and only one state-funded program. The state funding source is Economic Impact Aid (which is used for State Compensatory Education and/or English learners). The federal funding sources include:

- Title I, Part A Basic Grant (Low Income);
- Title I, Part D (Delinquent);
- Title II, Part A (Teacher Quality);
- Title III, Part A (Immigrant);
- Title III, Part A (Limited English Proficient Students); and
- Title VI, Part B (Rural, Low-Income).

The CDE provides the SBE with two levels of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, and has no compliance issues or is making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. Conditional approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, but has one or more noncompliant issues that is/are unresolved for over 365 days. Conditional approval by the SBE provides authority to the LEA to spend its categorical funds under the condition that it will resolve or make significant progress toward resolving noncompliant issues. In extreme cases, conditional approval may include the withholding of funds.

Attachment 1 identifies the LEAs that have no outstanding noncompliant issues or are making satisfactory progress toward resolving one or two noncompliant issues that is/are unresolved for less than 365 days. The CDE recommends regular approval of the 2011–12 ConApp for these 5 LEAs. Attachment 1 also includes ConApp entitlement figures from school year 2010–11 because the figures for 2011–12 have not yet been determined. Fiscal data are absent if an LEA is new or is applying for direct funding for the first time.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

To date, the SBE has approved 2011–2012 ConApps for 1,587 LEAs. Attachment 1 represents the sixth set of 2011–12 ConApps presented to the SBE for approval.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE provides resources to track the SBE approval status of the ConApps for more than 1,580 LEAs. The cost to track the noncompliant status of LEAs related to programs within the ConApp is covered through a cost pool of federal funds and Economic Impact Aid funds. CDE staff communicates with LEA staff on an ongoing basis to determine the evidence needed to resolve issues, reviews the evidence provided by LEA staff, and maintains a tracking system to document the resolution process.

ATTACHMENT(S)

Attachment 1: Consolidated Applications List (2011–12) - Regular Approvals (1 Page)

Consolidated Applications List (2011–12) – Regular Approvals

The following local educational agencies (LEAs) have submitted a correct and complete ConApp, Part I, and have no compliance issues or are making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. The California Department of Education recommends regular approval of these applications.

CD Code	School Code	Local Educational Agency Name	Total 2010–11 ConApp Entitlement	Total Entitlement Per Student	Total 2010–11 Title I Entitlement	2010–11 Entitlement Per Free and Reduced Lunch Student	2010–11 Percent At or Above Proficiency - Language Arts	2010–11 Percent At or Above Proficiency - Math
1062380	0124982	Ambassador Phillip V. Sanchez Public Charter	$0	$0	$0	$0	0	0
0961846	0123125	Camino Science and Natural Resources Charter	$0	$0	$0	$0	0	0
3066464	0123729	Community Roots Academy	$0	$0	$0	$0	0	0
3768163	0124271	Diego Valley Public	$0	$0	$0	$0	0	0
1964733	0124818	Los Angeles Leadership Primary Academy	$0	$0	$0	$0	0	0

The 2010–11 targets for elementary and middle schools are 67.6 percent for Language Arts and 68.5 percent for Math.
The 2010–11 targets for high schools are 66.7 percent for Language Arts and 66.1 percent for Math

Total Number of LEAs in the report: 5
Total ConApp entitlement funds for districts receiving regular approval: $0

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 26

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Consideration of Requests for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

California *Education Code* sections 47612.5 and 47634.2 specify that a charter school may receive apportionment funding for nonclassroom–based instruction only if a determination of funding is made by the State Board of Education (SBE). The charter schools listed in Attachment 1 are requesting SBE approval of their determination of funding request. Approval of these requests will allow the charter schools listed in Attachment 1 to receive apportionment funding.

RECOMMENDATION

California Department of Education Recommendation

Pursuant to *California Code of Regulations*, Title 5 sections 11963.3, 11963.4, and 11963.6, the California Department of Education (CDE) recommends that the SBE approve a determination of funding, identified in Attachment 1, for charter schools that offer nonclassroom-based instruction.

Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) met on June 14, 2012, and voted to recommend approval of the determination of funding request for the charter schools identified in Attachment 1. The motion passed unanimously for all of the charter schools except for one.Charter (#1146).

The ACCS recommended approval of the determination of funding request for one.Charter (#1146) by a vote of six to zero with one abstention.

BRIEF HISTORY OF KEY ISSUES

Pursuant to *California Code of Regulations*, Title 5 sections 11963.3, 11963.4, and 11963.6, charter schools requesting a determination of full (100 percent) funding meet the following criteria:

- At least 40 percent of the school's public revenues are to be spent on salaries and benefits for all employees who possess a valid teaching certificate.
- At least 80 percent of all revenues are to be spent on instruction and related services.
- The ratio of average daily attendance for independent study pupils to full-time certificated employees does not exceed a pupil-teacher ratio of 25:1.

Additionally, any SBE-approved determination of funding shall be in increments of a minimum of two years and a maximum of five years in length. 5 *CCR* Section 11963.6(a) requires a determination of two years for a new charter school in its first year of operation. Furthermore, *EC* Section 47612.5(d)(2) requires a determination of five years for a charter school that has achieved a rank of six or greater on the Academic Performance Index (API) for the two years immediately prior to receiving a determination of funding. Hallmark Charter School (#0257) has met the API rank requirement and is therefore being recommended for five years. As a guide when making a recommendation for a funding determination, the CDE has recommended a three-year determination period for a charter school in operation for less than three years and a four-year determination period for a charter school in operation for three or more years. If an otherwise eligible charter school requests fewer years, the CDE makes a corresponding recommendation.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for approving a determination of funding to establish eligibility for apportionment funding for charter schools that offer nonclassroom-based instruction. The CDE notes that this request is a recurring action item for the SBE.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, the charter schools listed in Attachment 1 would receive apportionment funding under the charter school block grant funding model. Funding is based on the statewide average funding levels for each grade span (kindergarten through grade three, grades four through six, grades seven through eight, and grades nine through twelve). Calculations use revenue limits for unified, elementary, and high school districts.

ATTACHMENTS

Attachment 1: California Department of Education Determination of Funding Recommendation (2 Pages)

California Department of Education
Proposed Determination of Funding Recommendation

Proposed Recommendation – Continuing Charter Schools
Fiscal Year 2012–13 through 2016–17

Charter Number	County	School	First Year Of Operation	Funding Request	CDE Proposed Recommendation	2009–10		2010–11	
						Statewide		Statewide	
						API	Similar Schools	API	Similar Schools
0257	Fresno	Hallmark Charter School	1999–00	100% 5 Years	100% 5 Years	8	8	8	10

Proposed Recommendation – Continuing Charter Schools
Fiscal Year 2012–13 through 2015–16

Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2009–10		2010–11	
						Statewide		Statewide	
						API	Similar	API	Similar
0163	Fresno	New Millennium Institute of Education	1999–00	100% 5 Years	100% 4 Years	ASAM		ASAM	
0519	Ventura	Somis Academy Charter School	2003–04	100% 5 Years	100% 4 Years	4	Not Available	2	1

Proposed Recommendation – Continuing Charter Schools
Fiscal Year 2012–13 through 2014–15

Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2009–10		2010–11	
						Statewide		Statewide	
						API	Similar	API	Similar
1146	San Joaquin	one.Charter	2010–11	100% 5 Years	100% 3 Years	Not Available		Not Available	

Proposed Recommendation – Continuing Charter Schools
Fiscal Year 2012–13 through 2013–14

Charter Number	County	School	First Year of Operation	Funding Request	CDE Proposed Recommendation	2009–10		2010–11	
						Statewide		Statewide	
						API	Similar	API	Similar
1183	Shasta	Cottonwood Creek Charter School	2010–11	100% 2 Years	100% 2 Years	Not Applicable		Not Applicable	
0088	Kings	Mid Valley Charter School	1995–96	100% 2 Years	100% 2 Years	Not Applicable		Not Applicable	

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 27

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Consideration of Requests for Determination of Funding for Prior Years as Required for Nonclassroom-based Charter Schools Pursuant to California *Education Code* sections 47612.5 and 47634.2, and *California Code of Regulations,* Title 5, Section 11963.4(c).	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

California *Education Code* (*EC*) sections 47612.5 and 47634.2 specify that a charter school may receive apportionment funding for nonclassroom-based instruction only if a determination for funding is made by the State Board of Education (SBE). Additionally, the SBE may modify a previously approved determination of funding if the SBE finds that such action is warranted pursuant to *California Code of Regulations,* Title 5 (5 *CCR*) Section 11963.4(c). The charter schools listed in Attachment 1 are requesting that the SBE modify their previously approved determination of funding. Approval of these requests by the SBE will allow the California Department of Education (CDE) to adjust apportionment funds previously made to the charter schools.

RECOMMENDATION

California Department of Education Recommendation

Pursuant to 5 *CCR* sections 11963.3 and 11963.4, the CDE recommends that the SBE approve a determination of funding, identified in Attachment 1, for charter schools that offer nonclassroom-based instruction.

Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) met on June 14, 2012, and voted to recommend approval of the determination of funding request for the charter schools identified in Attachment 1. The motion passed unanimously.

BRIEF HISTORY OF KEY ISSUES

The nonclassroom-based charter schools listed in Attachment 1 are requesting the modification of a previously approved determination of funding.

A charter school may receive a finding as a result of an audit or review that identifies a necessary change to the school's information that is required in the determination of the funding level for the charter school. If this occurs, the charter school must submit a revised request for determination of funding for the fiscal year with the audit finding.

In an independent annual audit performed for the 2007–08 fiscal year for Stellar Charter School (Stellar) (#0223) and Stellar Charter High (Stellar High) (#0490), the auditor reported separate audit findings for the determination of funding for each school. The audit findings stated that incorrect 2005–06 fiscal year financial information was included in Stellar's and Stellar High's determination of funding requests and that both schools qualified for no more than an 85 percent determination of funding. Consequently, Stellar and Stellar High did not meet the requirements for the 100 percent funding determination they received for fiscal years 2006–07 and 2007–08 and, as a result, received an overpayment of apportionment funds. Additionally, as a result of the audit, the schools were required to submit a revised determination of funding request for fiscal years 2006–07 and 2007–08 for reconsideration by the SBE.

Pursuant to 5 *CCR* Section 11963.4(c), the SBE may modify a previously approved determination of funding if any information is found that may change the conclusion to approve the original determination of funding. Based on the independent annual audit report and pursuant to 5 *CCR* sections 11963.4(a)(2) and 11963.4(c), the CDE finding is that Stellar and Stellar High meet the criteria for a proposed recommendation to modify the previously approved determination of funding of 100 percent to 85 percent. The proposed recommendation is for the 2006–07 fiscal year. In addition, the proposed recommendation is to correct the determination of funding of 85 percent to 100 percent for 2008–09 and to correct the effective period from 2009–10 through 2013–14 to 2008–09 through 2012–13 for the 100 percent five-year determination of funding. The cumulative effect of the CDE proposed recommendation is to correct both the determination of funding rate for the 2008–09 fiscal year (from 85 to 100 percent) and to correct the entire determination of funding period (from 2009–10 through 2013–14 to 2008–09 through 2012–13). Approval of the request by the SBE will allow the CDE to adjust apportionment funds previously made to Stellar and Stellar High. Information on the charter schools' request that was considered by the ACCS is available as Attachment 2 of Agenda Item 2 on the California State Board of Education June 14, 2012, Meeting Notice for the Advisory Commission on Charter Schools Web page located at http://www.cde.ca.gov/be/cc/cs/accsnotice061412.asp.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its May 2007 meeting, the SBE approved a 100 percent, two-year (2006–07 and 2007–08) determination of funding for Stellar and Stellar High. As a result of audit findings in the 2007–08 fiscal year independent annual audit for both schools, Stellar and Stellar High submitted amended funding determination forms for 2006–07 and 2007–08 and the SBE approved the amended requests for an 85 percent two-year determination of funding at its March 2008 meeting. The two years the SBE approved were for 2007–08 and 2008–09; however, the correct years should have been for 2006–07 and 2007–08. Subsequently, at its May 2009 meeting, the SBE approved a 100

percent, five-year (2009–10 through 2013–14) determination of funding for Stellar and Stellar High. The effective period, however, should have been for 2008–09 through 2012–13.

The SBE is responsible for approving a determination of funding to establish eligibility for apportionment funding for charter schools that offer nonclassroom-based instruction. The CDE notes that this request is a nonrecurring action item for the SBE.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, the CDE would adjust apportionment funds under the charter school block grant funding model for the charter schools listed in Attachment 1. Funding is based on the statewide average funding levels for each grade span (kindergarten through grade three, grades four through six, grades seven through eight, and grades nine through twelve). Calculations use revenue limits for unified, elementary, and high school districts.

ATTACHMENTS

Attachment 1: California Department of Education Determination of Funding Recommendation (1 Page)

California Department of Education
Determination of Funding Recommendation

Proposed Recommendation – Continuing Charter Schools
Modification to Fiscal Year 2006–07

Charter Number	County	Charter School	Prior SBE Action	CDE Proposed Recommendation
0223	Shasta	Stellar Charter School	100% 1 Year	85% 1 Year
0490	Shasta	Stellar Charter High School	100% 1 Year	85% 1 Year

Proposed Recommendation – Continuing Charter Schools
Modification to Fiscal Year 2008–09

Charter Number	County	Charter School	Prior SBE Action	CDE Proposed Recommendation
0223	Shasta	Stellar Charter School	85% 1 Year	100% 1 Year
0490	Shasta	Stellar Charter High School	85% 1 Year	100% 1 Year

Proposed Recommendation – Continuing Charter Schools
Modification to Fiscal Years 2009–10 through 2013–14

Charter Number	County	Charter School	Prior SBE Action	CDE Proposed Recommendation
0223	Shasta	Stellar Charter School	100% 5 Years 2009–10 through 2013–14	100% 4 Years 2009–10 through 2012–13
0490	Shasta	Stellar Charter High School	100% 5 Years 2009–10 through 2013–14	100% 4 Years 2009–10 through 2012–13

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 28

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE) is responsible for assigning a number to each approved charter petition. The California Department of Education (CDE) staff presents this routine request for assignment of charter numbers as a standard action item.

RECOMMENDATION

The CDE recommends that the SBE assign charter numbers to the charter schools identified on the attached list.

BRIEF HISTORY OF KEY ISSUES

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 1,428 charter schools, including some approved by the SBE after denial by local educational agencies. Separate from that numbering system, 8 all-charter districts which currently serve a total of 18 school sites, have been jointly approved by the State Superintendent of Public Instruction and the SBE.

California *Education Code (EC)* Section 47602 requires the SBE to assign a number to each charter school that has been approved by a local entity in the chronological order in which it was received. This numbering ensures that the state stays within a statutory cap on the total number of charter schools authorized to operate. The statutory cap for fiscal year 2012–13 is 1,650. The statutory cap is not subject to waiver.

The charter schools listed in Attachment 1 were recently approved by local boards of education as noted. Copies of the charter petitions are on file in the Charter Schools Division.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for assigning a number to each approved charter petition. CDE staff presents this routine request for assignment of charter numbers as a standard action item.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to the state resulting from the assignment of numbers to recently authorized charter schools.

ATTACHMENT(S)

Attachment 1: Assignment of Numbers for Charter School Petitions (2 Pages)

Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1429	Alta Vista Community Charter School	Placer	Auburn Union Elementary	Michele Schuetz 173 Oak Street Auburn, CA 95603
1430	Velocity International Science and Technology Academy	San Joaquin	New Jerusalem Elementary	Jim Thomas 41 Yokuts Street Stockton, CA 95207
1431	Newcastle Virtual Learning Academy	Placer	Newcastle Elementary	Kathleen Daugherty 8951 Valley View Drive Newcastle, CA 95658
1432	Placer County Pathways Charter School	Placer	Placer County Office of Education	Renee Regacho-Anaclerio 360 Nevada Street Auburn, CA 95603
1433	Orange County Conservation Corps Charter School	Mono	Mono County Office of Education	Katharyn Bandoni 1853 North Raymond Avenue Anaheim, CA 92801
1434	Magnolia Science Academy San Diego 3	San Diego	San Diego Unified	Hakki Karaman PO Box 421318 San Diego, CA 92142
1435	Plainview Academic Charter Academy	Los Angeles	Los Angeles Unified	Kenneth Johnson 10819 Plainview Avenue Tujunga, CA 91042
1436	Aspire Santa Fe Academy	Los Angeles	Los Angeles Unified	Roberta Benjamin 7500 Marbirsa Avenue Walnut Park, CA 90255
1437	Taft T. Newman Leadership Academy	San Bernardino	San Bernardino City Unified	Edna Davis Herring 7375 Day Creek Boulevard Rancho Cucamonga, CA 91739
1438	Woodward Leadership Academy	San Bernardino	San Bernardino City Unified	Edna Davis Herring 7375 Day Creek Boulevard Rancho Cucamonga, CA 91739
1439	Schaefer Charter School	Sonoma	Piner-Olivet Union Elementary	Jennie Snyder 3450 Coffey Lane Santa Rosa, CA 95403

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1440	Olivet Charter School	Sonoma	Piner-Olivet Union Elementary	Jennie Snyder 3450 Coffey Lane Santa Rosa, CA 95403
1441	Richmond Charter Academy	West Contra Costa	West Contra Costa Unified	Jorge Lopez 3200 Barrett Avenue Richmond, CA 94804
1442	Learning Without Limits	Alameda	Oakland Unified	Leo Fuchs 2035 40th Avenue Oakland, CA 94601
1443	Ascend	Alameda	Oakland Unified	Larissa Adams 3709 East 12th Street Oakland, CA 94601
1444	Hillcrest Middle School	Sonoma	Gravenstein Union Elementary	Linda LaMarre 3840 Twig Avenue Sebastopol, CA 95472
1445	Gravenstein Elementary School	Sonoma	Gravenstein Union Elementary	Linda LaMarre 3840 Twig Avenue Sebastopol, CA 95472
1446	East Palo Alto Academy	San Mateo	Sequoia Union High	Kevin Sved 475 Pope Street Menlo Park, CA 94025
1447	Kavod Elementary Charter School	San Diego	San Diego Unified	Cinda Doughty 3520 Mt. Acadia Boulevard San Diego, CA 92111
1448	Humphreys College Academy of Business, Law and Education	San Joaquin	New Jerusalem Elementary	Robert Humphreys, Sr. TBD
1449	LPS Oakland R&D Campus	Alameda	Oakland Unified	Soo Zee Park 344 Thomas L. Berkley Way Oakland, CA 94612
1450	Sonoma Mountain Elementary Charter School	Sonoma	Old Adobe Union	Katherine Mammen 1900 Rainer Circle Petaluma, CA 94954

California State Board of Education

Meeting Agenda Items for July 18-19, 2012

ITEM 29

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2012 AGENDA

SUBJECT	
California High School Exit Examination Alternative Means: Adopt Amendments to the *California Code of Regulations*, Title 5, Section 1216.1.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The California Department of Education (CDE) proposes amendments to the *California Code of Regulations*, Title 5, to extend the date of implementation of alternative means to the California High School Exit Examination (CAHSEE) for eligible students with disabilities (SWDs) established in California *Education Code* (*EC*) Section 60852.2, from January 1, 2011, to January 1, 2013. The State Board of Education (SBE) established, by regulation, the current implementation date of July 1, 2012, but has the ability under *EC* Section 60852.2 to extend the implementation date by an additional six months (to January 1, 2013). Extension of the implementation date for alternative means will, in effect, also extend the exemption provided by *EC* Section 60852.3.

RECOMMENDATION

The CDE recommends that the SBE take the following actions:

- Approve the Final Statement of Reasons;
- Formally adopt the proposed regulations approved by the SBE at the March 2012 meeting. No amendments or edits have been made to the proposed regulations;
- Direct the CDE to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

BRIEF HISTORY OF KEY ISSUES

EC Section 60852.2(b) specifies a January 1, 2011, implementation date for the alternative means unless the SBE, by regulation, extends this date by up to two years. Regulations adopted by the SBE in February 2011 extended the implementation date to July 1, 2012. Extension of the implementation date for alternative means will, in effect, also extend the exemption from meeting the CAHSEE requirement which ends June 30, 2012, unless regulations are adopted. If the regulations are adopted, the exemption from meeting the CAHSEE requirement ends December 31, 2012, unless legislation extending the exemption is enacted. Currently, there is a bill, Assembly Bill 1705, that proposes to extend the implementation for alternative means to July 1, 2015.

BRIEF HISTORY OF KEY ISSUES (Cont.)

The OAL approved an emergency action requested by the SBE to extend the implementation deadline once again, from July 1, 2012, to January 1, 2013 (the statutory deadline for implementation). This emergency regulatory action is effective on March 26, 2012, and will expire on September 25, 2012. The adoption of these permanent regulations will extend the implementation deadline to January 1, 2013.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the February 2011 meeting, the SBE adopted regulations extending the date of implementation of alternative means to the CAHSEE for eligible SWDs established in *EC* Section 60852.2, from January 1, 2011, to July 1, 2012.

FISCAL ANALYSIS (AS APPROPRIATE)

The Economic and Fiscal Impact Statement is provided as Attachment 3.

ATTACHMENT(S)

Attachment 1: Final Statement of Reasons (1 Page)

Attachment 2: *California Code of Regulations*, Title 5, Section 1216.1 (1 Page)

Attachment 3: Economic and Fiscal Impact Statement (4 Pages)

FINAL STATEMENT OF REASONS
CALIFORNIA HIGH SCHOOL EXIT EXAM (CAHSEE) ALTERNATIVE MEANS

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from March 24, 2012 through May 7, 2012. One comment was received during this comment period.

A public hearing was held at 9:00 a.m. on May 7, 2012, at the California Department of Education. Two individuals attended, and no one gave public comments.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MARCH 24, 2012 THROUGH MAY 7, 2012, INCLUSIVE.

Lorelle Dawes, Assistant Principal, Ventura High School

Comment: The commenter supports the extension of the legislation to provide alternative means for students with documented Individualized Education Plans (IEPs) to still graduate high school.

Accept: No response is required.

ALTERNATIVES DETERMINATION

The State Board of Education has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

LOCAL MANDATE DETERMINATION

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

5-9-12 [California Department of Education]

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

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 2. Pupils

Subchapter 6. California High School Exit Examination

Article 1. General

§ 1216.1. Implementation of an Alternative Means.

The State Board of Education, pursuant to Education Code section 60852.2(b), hereby extends the commencement date for implementation of alternative means by which an eligible pupil with a disability may demonstrate the same level of academic achievement in the content standards required for passage of the CAHSEE to ~~July~~ January 1, 2013~~2~~.

NOTE: Authority cited: Section 60852.2, Education Code. Reference: Section 60852.2, Education Code.

1-20-12 [California Department of Education]

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Amy Tang-Paterno	322-6630
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Implementation of an Alternative Means to the CAHSEE (version 1-20-12)		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance
- ☐ g. Impacts individuals
- ☑ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) The regulations would not impose any additional costs to the private sector.

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

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

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

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

Explain: _____

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

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

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

☐ Yes ☐ No If yes, explain briefly: _____

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

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

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

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

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

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

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

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

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

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

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

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

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

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

Explain: _____

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

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

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

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

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

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

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

Explain: _____

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

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

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

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

   Alternative 1: _____

   Alternative 2: _____

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

Regulation:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 1:	$ _____	Cost-effectiveness ratio: $ _____
Alternative 2:	$ _____	Cost-effectiveness ratio: $ _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

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

   ☐ a. is provided in _____, Budget Act of _____ or Chapter _____, Statutes of _____

   ☐ b. will be requested in the _____ (FISCAL YEAR) Governor's Budget for appropriation in Budget Act of _____

☐ 2. Additional expenditures of approximately $ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

   ☐ a. implements the Federal mandate contained in _____

   ☐ b. implements the court mandate set forth by the _____

   court in the case of _____ vs. _____

   ☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____ (DATE) election;

   ☐ d. is issued only in response to a specific request from the _____

   _____, which is/are the only local entity(s) affected;

   ☐ e. will be fully financed from the _____ (FEES, REVENUE, ETC.) _____ authorized by Section

   _____ of the _____ Code;

   ☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 3. Savings of approximately $ _____ annually.

☑ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year. It is anticipated that State agencies will:

☐ a. be able to absorb these additional costs within their existing budgets and resources.

☐ b. request an increase in the currently authorized budget level for the _____ fiscal year.

☐ 2. Savings of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any State agency or program

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

☐ 1. Additional expenditures of approximately $ _____ in the current State Fiscal Year.

☐ 2. Savings of of approximately $ _____ in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

FISCAL OFFICER SIGNATURE		DATE January 30, 2012
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE 2/8/12
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

AAV of SBE Item 29 Attachment 3

Accessible Alternative Version (AAV) of Item 29 Attachment 3 from the July 18-19, 2012 State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 29 Attachment 3 from the State Board of Education (SBE) Meeting Agenda, July 18-19, 2012. The scanned Item 29 Attachment 3 (PDF) version is considered to be the official version of the document.

Economic and Fiscal Impact Statement

(REGULATIONS AND ORDERS). User entries from the STD. 399 (REV. 12/2008) Form.

Department Name: Education

Contact Person: Amy Tang-Paterno

Telephone Number: 916-322-6630

Descriptive Title From Notice Register Or From 400: Implementation of an Alternative Means to the CAHSEE (version 1-20-12)

Notice File Number: Z

Economic Impact Statement

Section A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

Section A.1. Check the appropriate box(es) below to indicate whether this regulation:

- Selected option is H: None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate)

Fiscal Impact Statement

Section A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 4: No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law regulations.

Section B. FISCAL EFFECT ON STATE GOVERNMENT (Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 3: No fiscal impact exists because this regulation does not affect any State agency or program.

Section C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)

- Selected option is 3: No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

Fiscal Officer Signature dated January 30, 2012

Agency Secretary Approval / Concurrence Signature dated February 8, 2012

Department of Finance Approval / Concurrence Signature: No signature.

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

Last Reviewed: Friday, July 06, 2012