Agenda--July 11-12, 2007

California State Board of Education (SBE) meeting agenda.

Agenda
July 11-12, 2007

State Board Members

Kenneth Noonan, President
Ruth Bloom, Vice President

James Aschwanden
Alan Bersin
Yvonne Chan
Don Fisher
Ruth E. Green
David Lopez
Ted Mitchell
Johnathan Williams
Andrew Estep– Student Member

Secretary & Executive Officer

Hon. Jack O'Connell

Executive Director

Roger Magyar

Schedule of Meeting	Location
Wednesday, July 11, 2007 9:00 a.m. Pacific Time ± STATE BOARD OF EDUCATION Closed Session – IF NECESSARY (The public may not attend.)	California Department of Education 1430 N Street, Room 1101 Sacramento, California 916-319-0827

The Closed Session (1) may commence earlier than 9:00 a.m.; (2) may begin at or before 9:00 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 9:00 a.m.

CLOSED SESSION AGENDA

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

- *California Parents for the Equalization of Educational Materials v. California State Board of Education, et al.* U.S. Eastern District of California, Case No. 2:06-CV-00532-FCD-KJM
- *Californians for Justice Education Fund v. State Board of Education, et. al.,* Alameda County Superior Court Case No. RG06265395
- *Centinela Valley Union High School District v*. State Board of Education, *et al*., Los Angeles Superior Court, Case No. BS093483

Coachella Valley Unified School District, et.al., v. State of California, et.al. Case No. CPF-05-505334

- *Emma C., et al.* v. *Delaine Eastin, et al.*, United States District Court, Northern District of California, Case No. C 96 4179
- *EMS-BP, LLC, Options for Youth Burbank, Inc. et al. v. California Department of Education, et al.*, Sacramento County Superior Court, Case No. 03CS01078 / 03CS01079 and related appeal
- *Hindu American Foundation, et al., v. California State Board of Education, et al.*, Sacramento Superior Court Case No. 06CS00386
- *Houston, et al.* v. *Unknown US Employees, et al*., U.S. District Court, Southern District, Case No. 06CV1285-IEG(AJB)
- *K.C. et al. v. Jack O'Connell, et al*., U.S. District Court, Northern District of California, Case No. C 05 4077 MMC
- *Kidd, et al., v. California Department of Education, et al.,* Alameda Superior Court Case No. 2002049636
- *Opportunity for Learning – PB, LLC; Opportunities for Learning – C, LLC, and Opportunities for Learning WSH, LLC* Notice of Appeal Before the Education Audit Appeals Panel
- *Options for Youth, et al., v. California Department of Education, et al.*, Los Angeles Superior Court Case No. BC 347454
- *Options of Youth, - Burbank, Inc., San Gabriel, Inc., Upland, Inc., and Victor Valley* Notice of Appeal Before the Education Audit Appeals Panel, OAH #2006100966
- *Porter, et al.,* v. *Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Roxanne Serna, et al.,* v. *Delaine Eastin, State Superintendent of Public Instruction, et al*., Los Angles County Superior Court, Case No. BC174282
- *Valenzuela, et al., v. Jack O'Connell, et al., Alameda* Superior Court, Case No. JCCP 4468
- Case Name Unspecified: Disclosure of case names would jeopardize existing settlement negotiations

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

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

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

Schedule of Meeting	Location
Wednesday, July 11, 2007 9:00 a.m. Pacific Time ± (Upon Adjournment of Closed Session, if held) STATE BOARD OF EDUCATION Public Session	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 916-319-0827

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

Schedule of Meeting	Location
Thursday, July 12, 2007 8:00 a.m. Pacific Time ± STATE BOARD OF EDUCATION Closed Session - IF NECESSARY (The public may not attend.)	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 916-319-0827

Please see Closed Session Agenda above. The Closed Session (1) may commence earlier than 8:00 a.m.; (2) may begin at or before 8:00 a.m., be recessed, and then be reconvened later in the day; or (3) may commence later than 8:00 a.m.

Schedule of Meeting	Location
Thursday, July 12, 2007 8:00 a.m. ± Pacific Time (Upon Adjournment of Closed Session, if held) STATE BOARD OF EDUCATION Public Session	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 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 11-12 2007

Wednesday, July 11, 2007 – 9:00 a.m. Pacific Time ±
(Upon adjournment of Closed Session if held)
California Department of Education
1430 N Street, Room 1101
Sacramento, California

Call to Order

Salute to the Flag

CLOSED SESSION

Approval of Minutes (meetings from April 17, 2007, May 9-10, 2007)

Communications

Announcements

REPORT OF THE SUPERINTENDENT

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

NOTE: Items not heard or completed on July 11, 2007, may be carried over to July 12, 2007.

Agenda Items

Item 1 (DOC; 159KB; 6pp.)

Subject: STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board Liaison Reports; and other matters of interest.

Type of Action: Action, Information

- Item 1 addendum (DOC; 45KB; 1p.)

Item 2 (DOC; 57KB; 1p.)

Subject: PUBLIC COMMENT.

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

Type of Action: Information

Item 3 (DOC; 55KB; 2pp.)

Subject: California State Board of Education Student Member: Approve the application process and timeline for recruiting the 2008-09 Student Member of the Board

Type of Action: Action, Information

Item 4 (DOC; 58KB; 2pp.)

Subject: Appointment of Members to the Child Nutrition Advisory Council (CNAC)

Type of Action: Action, Information

Item 5 (DOC; 172KB; 24pp.)

Subject: Legislative update, including, but not limited to information on legislation from the 2007-08 legislative session

Type of Action: Action, Information

- Item 5 addendum (DOC; 168KB; 24p.)

Item 6 (DOC; 64KB; 3pp.)

Subject: Standardized Testing and Reporting (STAR) Program: Update including, but not limited to, Program Update

Type of Action: Action, Information

Item 7 (DOC; 60KB; 2pp.)

Subject: California High School Exit Examination (CAHSEE): Update including, but not limited to, Program Update

Type of Action: Action, Information

Item 8 (DOC;96KB; 4pp.)

Subject: California High School Exit Examination (CAHSEE): Review local educational agency failure to grant diplomas for certain students under California *Education Code* Section 60852.4

Type of Action: Action, Information

Item 9 (DOC; 124KB; 6pp.)

Subject: California English Language Development Test (CELDT): Update, including, but not limited to, Program Update and the CELDT 2006-07 Annual Assessment Results

Type of Action: Action, Information

Item 10 (DOC; 69KB; 3pp.)

Subject: U.S. Department of Education Peer Review of Standards and Assessment: Results of Second Peer Review

Type of Action: Action, Information

- Item 10 addendum (DOC; 74KB; 5pp.)

Item 11 (DOC; 907KB; 8pp.)

Subject: School Accountability Report Card (SARC): Proposed Template and Data Definitions for the 2007-08 School Year

Type of Action: Action, Information

Item 12 (DOC; 54KB; 1p.)

Subject: Update on issues related to California's implementation of No Child Left Behind and other federal programs

Type of Action: Action, Information

Item 13 (DOC; 734KB; 73pp.)

Subject: Mathematics and Reading Professional Development Program, Senate Bill 472, (Chapter 524, Statutes of 2006): Approve Commencement of Third 15-Day Comment Period for Proposed Amendments to Title 5 Regulations

Type of Action: Action, Information

Item 14 (DOC; 110KB; 12pp.)

Subject: Community-Based English Tutoring Program: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations

Type of Action: Action, Information

- Item 14 addendum (DOC; 54KB; 4pp.)

Item 15 (DOC; 80KB; 3pp.)

Subject: Sacramento County Committee on School District Organization request to modify the State Board of Education resolution approving the proposed unification of the Grant Joint Union High School District with the Del Paso Heights School District, the North Sacramento School District, and the Rio Linda Union School District in Sacramento County

Type of Action: Action, Information

Item 16 (DOC; 402KB; 19pp.)

Subject: Report: Electronic Editions of State-Adopted Instructional Materials

Type of Action: Action, Information

Item 17 (DOC; 84KB; 5pp.)

Subject: Textbook Weight Standards: Adoption of Proposed Title 5 Regulations, Section 9517.2

Type of Action: Action, Information

- Item 17 addendum (DOC; 43KB; 2pp.)

Item 18 (DOC; 334KB; 38pp.)

Subject: Adoption of Kindergarten Through Grade Eight Instructional Materials: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations, Sections 9510-9530

Type of Action: Action, Information

- Item 18 addendum (DOC; 710KB; 3pp.)

Item 19 (DOC; 104KB; 10pp.)

Subject: American Indian Education Center Program – Adoption of Proposed Title 5 Regulations Section 11996-11996.11

Type of Action: Action, Information

- Item 19 addendum (DOC; 103KB; 15pp.)

Item 20 (DOC; 63KB; 2pp.)

Subject: Educational Interpreters for Pupils Who are Deaf or Hard of Hearing – Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations, Section 3051.16 and Section 3065

Type of Action: Action, Information

- Item 20 Attachment 1 (DOC; 42KB; 1p.)

Item 21 (DOC; 92KB; 3pp.)

Subject: State Board of Education-Approved Charter Schools: Update

Type of Action: Action, Information

Item 22 (DOC; 363KB; 73pp.)

Subject: 2007-2010 Federal Public Charter Schools Grant Program Request for Applications

Type of Action: Action, Information

- Item 22 addendum (DOC; 332KB; 67pp.)

***** Public Hearing *****

A Public Hearing on the following agenda item will commence no earlier than **2:00 p.m.** on July 11, 2007. The Public Hearing will be held as close to **2:00 p.m.** as the business of the State Board permits.

Item 23 (DOC; 574KB; 111pp.)

Subject: Petition by the New West Charter School to Renew a Charter School under the Oversight of the State Board of Education: Hold Public Hearing and Approve

Type of Action: Action, Information, Public Hearing

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

Item 24 (DOC; 57KB; 2pp.)

Subject: California's Dropout Problem: Causes, Policy Approaches, and Interventions.

Type of Action: Action, Information

- Item 24 Attachment 1 (PDF; Outside Source)
  "Lack of Research, Data Hurts Dropout Efforts, Experts Say," Education Week (May 8, 2007) (2 pages).
- Item 24 Attachment 2 (DOC; 41KB 3pp.)
- Item 24 Attachment 3 (DOC; 46KB 1p.)
- Item 24 Attachment 4 (DOC; 52KB 1p.)
- Item 24 Attachment 5 (DOC; 53KB 2pp.)
- Item 24 Attachment 6 (DOC; 45KB 1p.)
- Item 24 Attachment 7 (DOC; 25KB 1p.)
- Item 24 Attachment 8 (PDF; Outside Source)
  Press Release announcing California Dropout Research Project (May 2007) (4 pages).
- Item 24 Attachment 9 (PDF; Outside Source)
  Project Description of California Dropout Research Project (May 2007) (2 pages).

Item 25 (DOC; 73KB; 3pp.)

Subject: Ridgecrest Charter School: Consider and Take Action on Material Revision of Charter

Type of Action: Action, Information

- Item 25 Attachment 1 (DOC; 321KB 39pp.)

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

Thursday, July 12, 2007 – 8:00 a.m.± Pacific Time

(Upon adjournment of Closed Session if held)

California Department of Education
430 N Street, Room 1101
Sacramento, California

Call to Order

Salute to the Flag

REPORT OF THE SUPERINTENDENT (unless presented on the preceding day)

ITEMS DEFERRED FROM PRECEDING DAY:
Any matters deferred from the previous day's session may be considered.

CLOSED SESSION

Agenda Items

Item 26 (DOC; 58KB; 2pp.)

Subject: Chief Business Officer Training Program – Approve Training Candidates for Fiscal Year 2007-08

Type of Action: Action, Information

- Item 26 Attachment 1 (XLS; 38KB; 8pp.)
- Item 26 addendum (DOC; 36KB; 1p.)

Item 27 (DOC; 80KB; 2pp.)

Subject: Chief Business Officer Training Program – Approve Training Candidates for Fiscal Year 2006-07

Type of Action: Action, Information

- Item 27 Attachment 1 (DOC; 15KB; 1p.)

Item 28 (DOC; 70KB; 3pp.)

Subject: Charter Schools: Determination of Funding Requests for 2006-07 (and beyond) for Nonclassroom-based Charter Schools

Type of Action: Action, Information

Item 29 (DOC; 77KB; 4pp.)

Subject: Assignment of Numbers for Charter School Petitions

Type of Action: Action, Information

- Item 29 addendum (DOC; 122KB; 8p.)

Item 30 (DOC; 72KB; 3pp.)

Subject: Implementation of Assembly Bill 1802, Chapter 79, Statutes of 2006: Approve Release of Funds for Supplemental Materials for English Learners

Type of Action: Action, Information

- Item 30 Attachment 1 (PDF; 56KB; 20pp.)
- Item 30 Attachment 2 (PDF; 90KB; 35pp.)

Item 31 (DOC; 57KB; 2pp.)

Subject: High Priority Schools Grant Program: Approve Revised Application and Action Plan for One Cohort 2 School

Type of Action: Action, Information

Item 32 (DOC; 58KB; 2pp.)

Subject: No Child Left Behind Act of 2001: Approve Local Educational Agency Plans, Title 1, Section 1112

Type of Action: Action, Information

- Item 32 addendum (DOC; 48KB; 1p.)

Item 33 (DOC; 78KB; 3pp.)

Subject: Consolidated Applications 2006-07: Approval

Type of Action: Action, Information

- Item 33 addendum (DOC; 54KB; 2pp.)

Item 34 (DOC; 58KB; 2pp.)

Subject: Mathematics and Reading Professional Development Program, Senate Bill 472 (Chapter 524, Statutes of 2006): Approval

of Training Providers and Training Curricula

Type of Action: Action, Information

Item 35 (DOC; 309KB; 11pp.)

Subject: Mathematics and Reading Professional Development Program, Senate Bill 472 (Chapter 524, Statutes of 2006): Approve Reimbursement Requests and Applications from Local Educational Agencies

Type of Action: Action, Information

Item 36 (DOC; 87KB; 9pp.)

Subject: Charter School Conflict of Interest Policies: Adopt Proposed Title 5 Regulations

Type of Action: Action, Information

- Item 36 addendum (DOC; 258KB; 47pp.)

Item 37 (DOC; 106KB; 10pp.)

Subject: No Child Left Behind Act of 2001: Highly Qualified Teachers - Adoption of Proposed Title 5 Regulations Section 6100 and 6104-6105.

Type of Action: Action, Information

- Item 37 addendum (DOC; 142KB; 22pp.)

Item 38 (DOC; 64KB; 3pp.)

Subject: Request for Approval of El Dorado County Office of Education Local Plan

Type of Action: Action, Information

Item 39 (DOC; 61KB; 2pp.)

Subject: Request for Approval of Lodi Area Special Education Region Local Plan

Type of Action: Action, Information

Item 40 (DOC; 70KB; 3pp.)

Subject: Request for Approval of Desert Mountain Special Education Local Plan

Type of Action: Action, Information

Item 41 (DOC; 70KB; 2pp.)

Subject: 2005 History–Social Science: Guru Nanak picture in the State Board-Adopted History–Social Science Program, Oxford History-Social Science Program for California

Type of Action: Action, Information

- Item 41 addendum (DOC; 82KB; 2pp.)

WAIVER REQUEST CONSENT MATTERS

The following agenda items include waivers and other administrative matters that California Department of Education (CDE) staff has identified as having no opposition and presenting no new or unusual issues requiring the State Board's attention.

ADULT EDUCATION INNOVATION AND ALTERNATIVE INSTRUCTIONAL DELIVERY PROGRAM

Item WC-1 (DOC; 82KB; 4pp.)

Subject: Request by **Santa Clara Unified School District** (USD) to waive *Education Code (EC)* Section 52522(b) to increase from 5 percent to 7 percent the proportion of their adult education state block entitlement that may be used to implement approved Adult Education Innovation and Alternative Instructional Delivery Programs.
(Recommended for APPROVAL)

Type of Action: Action

CARL D. PERKINS CAREER AND TECHNICAL EDUCATION IMPROVEMENT ACT

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

Subject: Request by **Butte Valley Unified School District** for a renewal waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
(Recommended for APPROVAL)

Type of Action: Action

Item WC-3 (DOC; 68KB; 2pp.)

Subject: Request by **Klamath-Trinity Joint Unified School District** for a renewal waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
(Recommended for APPROVAL)

Type of Action: Action

Item WC-4 (DOC; 59KB; 2pp.)

Subject: Request by **Heber Elementary School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Jeannette Arzaga assigned at Heber Elementary.
(Recommended for APPROVAL)

Type of Action: Action

Item WC-5 (DOC; 64KB; 3pp.)

Subject: Request by **El Segundo Unified School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Beth Katz assigned at Richmond Elementary and Ramona Miller assigned at Center Street School.
(Recommended for APPROVAL)

Type of Action: Action

Item WC-6 (DOC;63KB; 2pp.)

Subject: Request by **Rocklin Unified School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Deanna Torrington assigned at Twin Oaks Elementary School.
(Recommended for APPROVAL)

Type of Action: Action

Item WC-7 (DOC; 67KB; 2pp.)

Subject: Request by **West Contra Costa SELPA** to waive *Education Code (EC)* Section 56362 (c), allowing the caseload of the

resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Michael Taylor assigned at DeJean Middle School.
(Recommended for APPROVAL)

Type of Action: Action

Item WC-8 (DOC; 64KB; 2pp.)

Subject: Request by **Denair Unified School District** to waive *Education Code (EC)* Section 56362 (c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Rhonda Bird assigned at Denair Middle School.
(Recommended for APPROVAL)

Type of Action: Action

STATE MEAL MANDATE (Saturday School Session)

Item WC-9 (DOC; 74KB; 3pp.)

Subject: Request by **Chowchilla Union High School District** to waive *Education Code (EC)* Section 49550 the requirement that needy pupils must be provided a nutritionally adequate free or reduced-price meal during each school day (State Meal Mandate) during the Saturday School Session.
(Recommended for APPROVAL) *EC* 33051(c) will apply

Type of Action: Action

WAIVER REQUEST NON-CONSENT (ACTION)

The following agenda items include waivers and other administrative matters that CDE staff has identified as having opposition, being recommended for denial, or presenting new or unusual issues that should be considered by the State Board. On a case by case basis public testimony may be considered regarding the item, subject to the limits set by the Board President or the President's designee; and action different from that recommended by CDE staff may be taken.

ADMINISTRATIVE CREDENTIAL REQUIREMENT

Item W-1 (DOC; 64KB; 2pp.)

Subject: Request by **Riverside County Office of Education** to waive *Education Code (EC)* sections 1206 and 1208, the requirement that a county superintendent must possess an administrative credential as a condition of holding the superintendent position.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

ALGEBRA 1 (students with disabilities)

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

Subject: Request by **Saddleback Valley Unified School District** to waive *Education Code (EC)* Section 51224.5(b), the requirement that all students graduating in the 2006-07 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 *EC* Section 56101, the special education waiver authority.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

Item W-3 (DOC; 64KB; 2pp.)

Subject: Request by various local educational agencies to waive *Education Code (EC)* Section 51224.5(b), the requirement that all students graduating in the 2006-07 year be required to complete a course in Algebra I (or equivalent) to be given a diploma of

graduation for special education student(s) based on *EC* Section 56101, the special education waiver authority.

Type of Action: Action

BONDED INDEBTEDNESS

Item W-4 (DOC; 72KB; 3pp.)

Subject: Request by **Bassett Unified School District** to waive *Education Code (EC)* Section 15270, to allow the district to exceed its bonding limit of 2.5 percent of the taxable assessed value of property. (Requesting 2.84 percent)
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

CLASSIFIED SENIOR MANAGEMENT EMPLOYEES

Item W-5 (DOC; 66KB; 2pp.)

Subject: Request by the **Lassen Union High School District** under the authority of *Education Code (EC)* Section 45107.8 to waive *EC* 45108.5(b)(1) to increase permanently the number of classified senior management positions in the district. Current: allowed 2 positions. Proposed: 3 permanent positions.
(Recommended for APPROVAL)

Type of Action: Action

- Item W-5 Attachment 2 (DOC; 20KB; 1p.)

CHARTER SCHOOL FACILITY GRANT PROGRAM FUNDS

Item W-6 (DOC; 93KB; 4pp.)

Subject: Request by the **Escondido Union High School District** to waive portions of *Education Code (EC)* Section 47614.5 to allow **Escondido Charter High School** to retain Charter School Facility Grant Program funds received in 2004-05 and 2005-06, rather than returning those funds to the state.
(Recommended for DENIAL)

Type of Action: Action

- Item W-6 Attachment 1 (DOC; 25KB; 2pp.)

CHARTER SCHOOL GEOGRAPHIC LOCATION

Item W-7(DOC; 76KB; 3pp.)

Subject: Request by the **Twin Ridges Elementary School District** (TRESD), located in Nevada County, to waive portions of *Education Code (EC)* sections 47605, 47605.1, and 47607 to allow **Maria Montessori Charter Academy**, a charter school located in the Rocklin Unified School District in Placer County, to continue to be authorized by the TRESD through June 30, 2008.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

DISTRICT REORGANIZATION (120 day timelines)

Item W-8 (DOC; 67KB; 2pp.)

Subject: Request by the **Contra Costa County Office of Education** for a waiver of portions of *Education Code (EC)* Section 35706 regarding the 120-day timelines between the first public hearing and approval or disapproval of the petition by the Contra Costa County Committee on School District Organization regarding the transfer of acreage from Knightsen Elementary School

District to Oakley Union Elementary School District.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

EXTENDED SCHOOL YEAR

Item W-9 (DOC; 63KB; 2pp.)

Subject: Request by **Stockton Unified School District** to waive *California Code of Regulations (CCR)*, Title 5, Section 3043(d) which requires a minimum of 20 school days of attendance (with varied minutes depending on grade level of students) for an extended school year (summer school) for special education students.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

INSTRUCTIONAL MATERIALS FUNDING REALIGNMENT PROGRAM (IMFRP)

Item W-10 (DOC; 64KB; 3pp.)

Subject: Request by **Lake Tahoe Unified School District** to purchase specified non-adopted instructional materials (*Everyday Mathematics*, c. 2001 for grades kindergarten through three and c. 2002 for grades four through six) using Instructional Materials Funding Realignment Program (IMFRP) monies for the 2007-08 school year.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

INSTRUCTIONAL MATERIALS (24 month rule)

Item W-11 (DOC; 70KB; 3pp.)

Subject: Request by **Garden Grove Unified School District** under the authority of *Education Code (EC)* Section 60422(c) to waive *EC* Section 60422(a), the “24 month rule” for purchase of instructional materials after the adoption of a new list by the State Board of Education. Request is to delay the adoption of History–Social Science at the kindergarten through grade six level only for an additional six months.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

INSTRUCTIONAL TIME PENALTY

Item W-12 (DOC; 63KB; 2pp.)

Subject: Request by **Cloverdale Unified School District** to waive *Education Code (EC)* Section 46201(d), the Longer Day Incentive Program audit penalty for offering less instructional time in the 2005-2006 fiscal year than the state minimums set 1986-87 at **Cloverdale High School** by 345 minutes for students in grades 9-12.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

Item W-13 (DOC; 65KB; 3pp.)

Subject: Request by **Paradise Unified School District** to waive *Education Code (EC)* Section 46202(b), the Longer Day Incentive Program audit penalty for offering less instructional time in the 2005-2006 fiscal year than what the district offered in 1982-1983 at **Paradise Intermediate School** by 790 minutes for students in grades 7-8.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

OUT OF STATE TRAVEL

Item W-14 (DOC; 65KB; 3pp.)

Subject: Request by **Alpine County Unified School District** to waive a portion of *Education Code (EC)* Section 35330(d) to authorize expenditure of school district funds for eighth grade students to travel to Washington, D.C., which is part of their study of American History and Government.
(Recommended for APPROVAL) *EC* 33051(c) will apply

Type of Action: Action

PHYSICAL EDUCATION

Item W-15 (DOC; 75KB; 4pp.)

Subject: Request by **San Luis Coastal Unified School District** to waive portions of *Education Code (EC)* Section 51222, related to the statutory minimum of 400 minutes of physical education required each ten school days for students in grades nine through twelve in order to implement a block schedule at **San Luis Obispo High School**.
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

SCHOOL SITE COUNCIL

Item W-16 (DOC; 61KB; 2pp.)

Subject: Request by **Palm Springs Unified School District** on behalf of a small alternative school for a waiver of *Education Code* (*EC*) Section 52852, to allow a reduction in the number of members required for a school site council (SSC).
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

STATE TESTING

Item W-17 (DOC; 63KB; 2pp.)

Subject: Request by **Vallejo City Unified School District** to waive the State Testing Apportionment Information Report deadline of December 31st in the California Code of Regulations (CCR), Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test (CELDT).
(Recommended for APPROVAL)

Type of Action: Action

UNIFICATION BOARD ELECTIONS

Item W-18 (DOC; 69KB; 3pp.)

Subject: Request by **Sacramento County Office of Education** to waive portions of Education Code *(EC)* sections 35558(a) and 35737, which will then allow a different timeframe for staggering the terms of newly elected members of the governing board of a new unified school district formed from the existing Grant Joint Union High School District (GJUHSD), Del Paso Heights School District (DPHSD), North Sacramento School District (NSSD), and Rio Linda Union School District (RLUSD).
(Recommended for APPROVAL WITH CONDITIONS)

Type of Action: Action

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

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

For more information concerning this agenda, please contact at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone 916-319-0827; fax 916-319-0175. To be added to the speaker's list, please fax or mail your written request to the above-referenced address/fax number. This agenda is posted on the State Board of Education's Web site [http://www.cde.ca.gov/be/ag/]

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

Last Reviewed: Wednesday, August 03, 2011

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board Liaison Reports; and other matters of interest.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Take action (as necessary and appropriate) regarding State Board Projects and Priorities.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At each regular meeting, the State Board has traditionally had an agenda item under which to address "housekeeping" matters, such as agenda planning, non-closed session litigation updates, non-controversial proclamations and resolutions, bylaw review and revision, Board liaison reports; and other matters of interest. The State Board has asked that this item be placed appropriately on each agenda.

SUMMARY OF KEY ISSUES

Board Member Liaison Reports

Board Members serve as liaisons to various committees, organizations, and issue areas. When appropriate, the Liaisons provide short oral reports on issues of interest to the State Board. At this time, there are several vacant liaison positions that Board Members may wish to accept.

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable for this "housekeeping" item.

ATTACHMENT(S)

Attachment 1 State Board Bylaws (as amended July 9, 2003) (10 pages)
Attachment 2: Agenda Planner 2007 (2 Pages)
Attachment 3: Acronyms Chart (3 Pages)

AGENDA PLANNER 2007

MAY 9-10, 2007 ..... SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Dates of Interest to the State Board:

- Curriculum Commission Meeting, Sacramento, May 17-18
- Advisory Commission on Special Education, Sacramento, May 24-25

JUNE, 2007 ..... NO MEETING SCHEDULED

Dates of Interest to the State Board:

JULY 11-12, 2007 ..... SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Dates of Interest to the State Board:

- 2007 Mathematics Primary Adoption, IMAP/CRP Deliberations, Sacramento, July 16-19 (Session 1) AND July 30-Aug. 2 (Session 2)
- Advisory Commission on Special Education

AUGUST, 2007 ..... NO MEETING SCHEDULED

Dates of Interest to the State Board:

SEPTEMBER 12-13, 2007 ..... SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary

Other Dates of Interest to the State Board:

- Advisory Commission on Special Education
- Advisory Commission on Charter Schools

AGENDA PLANNER 2007

OCTOBER, 2007 .....NO MEETING SCHEDULED

Dates of Interest to the State Board:

- Applications due for the Student Member of the Board

NOVEMBER 7-8, 2007 .....SACRAMENTO

Board Meeting

- STAR, update/action as necessary
- CAHSEE, update/action as necessary
- CELDT, update/action as necessary
- No Child Left Behind Act, update/action as necessary
- Student Member of the Board, recommend three finalists

Other Dates of Interest to the State Board:

- Advisory Commission on Special Education
- Advisory Commission on Charter Schools

DECEMBER, 2007 .....NO MEETING SCHEDULED

Dates of Interest to the State Board:

-

ACRONYMS CHART	
ACRONYMS	
AB	Assembly Bill
ACCS	Advisory Commission on Charter Schools
ACES	Autism Comprehensive Educational Services
ACSA	Association of California School Administrators
ADA	Americans with Disabilities Act
ADA	Average Daily Attendance
AFT	American Federation of Teachers
AP	Advanced Placement
API	Academic Performance Index
ASAM	Alternative Schools Accountability Model
AYP	Adequate Yearly Progress
BTSA	Beginning Teacher Support and Assessment
CAHSEE	California High School Exit Examination
CAPA	California Alternate Performance Assessment
CASBO	California Association of School Business Officials
CASH	Coalition for Adequate School Housing
CAT/6	California Achievement Test, 6th Edition
CCSESA	California County Superintendents Educational Services Association
CDE	California Department of Education
CELDT	California English Language Development Test
CFT	California Federation of Teachers
CHSPE	California High School Proficiency Exam
CNAC	Child Nutrition Advisory Council
COE	County Office of Education
ConAPP	Consolidated Applications
CRP	Content Review Panel
CSBA	California School Boards Association
CSIS	California School Information System
CST	California Standards Test
CTA	California Teachers Association
CTC	California Commission on Teacher Credentialing

	ACRONYMS CHART
ACRONYMS	
EL	English Learner
ELAC	English Learner Advisory Committee
ESL	English as a Second Language
FAPE	Free and Appropriate Public Education
FEP	Fluent English Proficient
GATE	Gifted and Talented Education
GED	General Education Development
HPSGP	High-Priority School Grant Program
HumRRO	Human Resources Research Organization
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
II/USP	Immediate Intervention/Underperforming Schools Program
IMAP	Instructional Materials Advisory Panel
IMFRP	Instructional Materials Fund Realignment Program
LEA	Local Educational Agency
LEP	Limited English Proficient
NAEP	National Assessment of Educational Progress
NEA	National Education Association
NCLB	No Child Left Behind Act of 2001
NPS/NPA	Non Public Schools/Non Public Agencies
NRT	Norm-Referenced Test
OSE	Office of the Secretary for Education
PAR	Peer Assistance and Review Program for Teachers
PSAA	Public School Accountability Act
ROP	Regional Occupation Program
RLA/ELD	Reading/Language Arts/English Language Development
SABE/2	Spanish Assessment of Basic Education, 2nd Edition
SAIT	School Assistance and Intervention Team
SARC	School Accountability Report Card
SAT 9	Stanford Achievement Test, 9th Edition

	ACRONYMS CHART
ACRONYMS	
SB	Senate Bill
SEA	State Educational Agency
SELPA	Special Education Local Plan Area
SBCP	School Based Coordination Program
SBE	State Board of Education
SSPI	State Superintendent of Public Instruction (Jack O'Connell)
STAR	Standardized Testing and Reporting Program
TDG	Technical Design Group (PSAA Advisory Committee)
USD	Unified School District
USDE	United States Department of Education
UTLA	United Teachers-Los Angeles
WIA	Workforce Investment Act

State of California **Department of Education**

ITEM ADDENDUM

DATE: May 21, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Dr. Anthony Monreal, Deputy Superintendent
Cirriculum and Instruction Branch

RE: Item No. 1

SUBJECT: Requested Data Students with Disabilities

During the May 9-10, 2007, the State Board of Education meeting, several board members requested information regarding students with disabilities. According to the December 2006, the California Special Education Management Information System (CASEMIS) student census, there were 679,648 students with disabilities enrolled in the 123 California Special Education Local Plan Areas (SELPAs) (please see attached table: Special Education Enrollment Data Report: 2006-07, for enrollment by SELPA). Of these students, there are 185,182 students with disabilities, aged fourteen to twenty-one years, taking courses which may enable them to receive a high school diploma. There are 26,005 students with disabilities, aged fourteen to twenty-one years, on a certificate of completion track. The U.S. Department of Education requires that California identify student participation in the state testing program without accommodations, with accommodations, with modifications, or in the California Alternate Performance Assessment (CAPA):

Age in Years	Without Accommodations	With Accommodations	With Modifications	Participate in CAPA
14	13,902	28,723	3,028	4,355
15	12,970	29,295	4,308	3,981
16	12,390	28,585	5,161	4,130
17	6,540	15,191	3,167	2,091
18	1,525	3,371	836	708
19	219	396	134	229
20	66	99	19	139
21	34	33	10	89
Total	**47,646**	**105,693**	**16,663**	**15,722**

CASEMIS reporting identifies whether student individualized education plans require accommodations or modifications. CASEMIS does not identify the specific test (i.e., California Standards Test, California High School Exit Examination) in which students participated other than participation in CAPA. These data do not necessarily reflect whether students actually received accommodations or modifications during testing.

CALIFORNIA STATE BOARD OF EDUCATION
JULY 2007 AGENDA

SUBJECT	
PUBLIC COMMENT. Public Comment is invited on any matter not included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.	☐ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Listen to public comment on matters not included on the agenda.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

N/A

SUMMARY OF KEY ISSUES

N/A

FISCAL ANALYSIS (AS APPROPRIATE)

N/A

ATTACHMENT(S)

None

ITEM # 3

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
California State Board of Education Student Member: Approve the application process and timeline for recruiting the 2008-09 Student Member of the Board	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

Approve the proposed timeline, selection process, and application documents for the selection of the 2008-09 student member of the State Board of Education (SBE).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its November 2006 meeting, the SBE selected three finalists for the 2007-08 student member of the Board position. The names of the finalists were sent to the Governor's Office for his review.

SUMMARY OF KEY ISSUES

Education Code Section 33000.5 authorizes the student member of the Board position. The student member's term is one year, commencing August 1, and occurs during the students' senior year.

Ed Code Section 33000.5 requires that the following activities take place by the dates identified. Following the description of activities is a SBE staff recommendation for the application release date and due dates for the 2008-09 application cycle:

SBE office sends notification letters - No later than September 15, the SBE notifies the superintendent of every school district with a high school and every high school principal that the application period is open. The notification occurs by mailing and e-mailing a copy of the application with a cover letter, brochure, and recruitment poster. The same information is posted on the SBE website. The letter encourages superintendents and principals to ask their high school counseling offices to hang the poster and to make the brochures and applications available to students.

Applications are due to the SBE office - no later than October 31.

Eligibility requirements – The selected student must in good standing during his senior year.

Select the 12 semi-finalists - October - SBE staff and screening committee members review the applications and identify 12 semifinalists who will attend a state-wide meeting of student council members.

School district governing board student members will select six candidates from the 12 semifinalists - November 3-8 – This requirement is satisfied by requiring the semifinalists to attend, at SBE expense, the Student Advisory Board on Education (SABE) conference, sponsored by the California Association of Student Councils (CASC). The semifinalists will participate in all conference activities (preparing recommendations to present to the SBE). In addition, the semifinalists will make presentations on their qualifications for being the student board member. Following the presentations, the SABE delegates will vote for their top six choices. The six candidates with the greatest number of votes will be identified as the candidates.

The SBE shall, by December 31, select three finalists for the Governor's consideration and shall rank the finalists according to their preference - November 7-8 – The SBE screening committee will interview the six candidates and recommend three to the full SBE. The SBE will consider the screening committee's recommendations and select three finalists whose names will be sent to the Governor for his consideration.

Governor shall appoint a student member - May through July – The Governor's office will interview the finalists and select one of the students as the 2008-09 student member of the board.

Beginning of the student member's term - August 1, 2008 – The term of the student member will begin as soon as the student is appointed. The student may serve for one year.

FISCAL ANALYSIS (AS APPROPRIATE)

There is minimal cost associated with copying and mailing the application materials.

ATTACHMENT(S)

Attachment 1: Proposed 2008-09 Student Member Application
Attachment 2: Proposed recruitment brochure
Attachment 3: Proposed recruitment flyer

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Appointment of Members to the Child Nutrition Advisory Council (CNAC)	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Appoint individuals to finish existing terms or for new terms on the Child Nutrition Advisory Council (CNAC).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In March, 2005, the SBE appointed seven members to the Council.

SUMMARY OF KEY ISSUES

The State Board of Education appoints members to the Child Nutrition Advisory Council (CNAC) pursuant to Education Code Section 49533. The CNAC is composed of 13 members, 12 of whom serve three-year terms. The 13th member is a designee of the State Superintendent. The advisory committee is composed of individuals who reflect the child nutrition community, including one representative from each of the following:
California Department of Education,
School administrators,
School board members,
School food service directors,
School food service supervisors/managers,
Classroom teachers,
Curriculum coordinators,
Nutrition education specialists,
Laypeople,
Child Care Food Program sponsors,
Secondary school students,
Recognized parent-teacher organizations, and
Consultants in nutrition, education, child care, or health and welfare.

As with other Board advisory committees, a Board member is appointed to liaise with the Council.

The positions in bold are those that are currently vacant.

The State Board's Screening Subcommittee will recommend individuals for appointment to positions on the CNAC.

FISCAL ANALYSIS (AS APPROPRIATE)

N/A

ATTACHMENT(S)

Brief biographies of the nominees will be provided as a last minute memorandum.

ITEM #5

CALIFORNIA STATE BOARD OF EDUCATION

JULY, 2007 AGENDA

SUBJECT	
Legislative update, including, but not limited to information on legislation from the 2007-08 legislative session.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The May, 2007 update included a timeline of upcoming legislative deadlines and an opportunity for the SBE to discuss legislation introduced in the first year of the two-year 2007-08 Legislative Session.

SUMMARY OF KEY ISSUES

The legislative measures presented include bills that fall under the seven principles adopted by the SBE at the September 2004 Board meeting, and other legislation that may be of interest to the SBE.

July 13	Last day for policy committees to hear and report legislation introduced in the opposing house.
July 20	Legislature is scheduled to begin their summer recess.
August 20	Legislature reconvenes from Summer Recess.
August 31	Last for Fiscal Committees to hear and report legislation introduced in the opposite house.
Sept. 3 – 14	No committee may meet for any purpose.
Sept. 14	Legislature recesses the first year of the 2007-08 Legislative Session.
October 14	Last day for the Governor to sign or veto legislation passed by the Legislature on or before September 14th that are in his possession.
Jan 1, 2008	All legislation signed into law will take effect unless otherwise specified.
Jan 7, 2008	Legislature reconvenes for the second year of the 2007-08 Legislative Session.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal impact will be noted as necessary and appropriate.

ATTACHMENT(S)

Attachments: 1 Legislative Update (22 pages)

Legislative Update

Bills Related to State Board (SBE) of Education Principles

1. Safeguard the State Board of Education adopted academic content standards as the foundation of California's K-12 educational system; the same standards for all children.

SB 126 (Harman) - Health education content standards: child abuse prevention
This measure has been significantly amended and no longer addresses child abuse prevention education standards.

2. Insure that curriculum is rigorous, standards-aligned, and research-based utilizing State Board adopted materials or standards-aligned textbooks in grades 9 to 12, to prepare children for college or the workforce.

AB 32 (Fuller) - Career technical education: work certification training
This bill would state the intent of the Legislature to provide, within the public school system, work certification training options with particular emphasis on job specific skilled labor and technical training to students 16 to 18 years old who have passed the high school exit examination, and have the consent of their parents or guardians. This measure passed the Assembly Committees on Education and Higher Education and is currently in the Assembly Appropriations Committee.

AB 72 (Dymally) – Filipino Veterans and World War II
This bill would require the instruction in social science for grades 7 to 12 of World War II and the role of Filipinos in that war. This bill would make the requirement applicable when the curriculum materials to be used for compliance are purchased by a school district in its normal course of business and purchasing cycles. This measure passed the Assembly and is currently in the Senate Education Committee.

AB 88 (Lieu) - Pupil instruction: Internet safety curriculum guidelines
This bill would require the State Department of Education to develop and maintain Internet safety curriculum guidelines for use by local educational agencies. The bill would also require the department to distribute the guidelines to local educational agencies, upon approval of the guidelines by the State Board of Education. This measure has passed the Assembly Committees on Education and Appropriations and is currently on the Assembly Floor.

AB 150 (Lieu) – Financial Literacy
This bill would establish the California Financial Literacy Initiative for the purpose of improving financial literacy by offering materials for teachers and schools to provide high-quality financial literacy education for pupils in kindergarten and grades 1 to 12.

The initiative would be administered by the California Financial Literacy Council that would be established within the State Department of Education and would consist of representatives of CDE, the office of the Treasurer, the Department of Corporations, the Department of Financial Institutions, and the office of the Controller. The council would be required to oversee the initiative and, among other things, to provide a clearinghouse of financial literacy resources and materials to be made available for schools and teachers. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 178 (Coto) - College Readiness and Equity Program
This bill would establish the 3-year College Readiness and Equity Program to be administered by the State Department of Education. The bill would provide funding through the program, in the form of $100 per pupil grants per year, commencing with the 2008-09 school year, to participating high schools that make a 3-year commitment to enroll all incoming pupils in the sequence of courses, including applicable career technical education courses, that satisfy the prerequisites for admission to the California public institutions of postsecondary education. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 216 (Bass) - Special education: nonpublic, nonsectarian schools
This bill would require that the educational materials, services, and programs provided by the nonpublic, nonsectarian school be adopted by the State Board of Education, and be consistent with the pupil's individualized education program. This measure has passed the Assembly and is currently in the Senate Education Committee.

AB 750 (Carter) – Technology Curriculum
This bill would declare the intent of the Legislature to enact legislation to expand technology curriculum in the public middle and high schools and to ensure that school districts annually consult with certain public postsecondary institutions to make sure that the coursework the secondary school offers is honored by the postsecondary institutions. This measure failed to pass the Assembly Education Committee but has been granted reconsideration. It is now a two-year bill.

AB 1320 (Carter) – Civic Engagement
This bill would allow students an excused absence if they are serving as a member of a precinct board or engaging in leadership or civic engagement activities. The bill would exempt the pupil participating in one of those activities from the requirement that the pupil participate in the activity for 5 or more consecutive schooldays in order for his or her attendance to be included, if the pupil is required to complete all missed assignments and tests and a report or written assignment on the subject of the activities engaged in by the pupil. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1454 (Richardson) – Content Standards Review
This bill would repeal the authority of the State Board to modify proposed content and performance standards. The statement and exemption related to the Administrative Procedure Act also would be repealed. This bill would also require the Superintendent

of Public Instruction to appoint content standards review panels in each subject area pursuant to specified panel membership requirements. A content standards review panel would be required to review the content standards established in its particular subject matter, revise the standards as it deems necessary, and forward the revisions to the State Board. The State Board would be required to adopt or reject the standards within 120 days of receipt. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1522 (Brownley) – Instructional Materials
This measure would require the California Student Aid Commission to develop and make available a software program, for use by potential applicants, to facilitate identifying and applying for institutional, state, and federal student aid programs. This measure is now a two-year bill is currently in the Assembly Higher Education Committee.

SB 15 (Wyland) – Career Technical Education Vision Council
This bill would create the Career Technical Education Vision Council to make recommendations regarding career technical education, as specified, and to develop a workforce preparation and strategic plan on or before December 31, 2008. The bill would create the Career Technical Education Vision Fund, funds of which would be continuously appropriated to the Council, and would permit the Council to accept private donations for these purposes. This measure is now a two-year bill is currently in the Senate Education Committee.

SB 602 (Torlakson) – Physical Education Incentive Grants Program
This bill would establish the Physical Education Incentive Grants Program to be administered by the Superintendent of Public Instruction. The bill would require the Superintendent to apportion funding to eligible local educational agencies, as specified, for purposes of hiring teachers with clear single subject credentials in physical education. The bill would require the Superintendent to require the recipient local educational agency to provide a percentage match of its own funds for purposes of the program based on the amount of funds apportioned and the financial means of the local educational agency. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

3. Insure the availability of State Board of Education adopted instructional materials for Kindergarten and grades 1 to 8 and locally adopted standards-aligned instructional materials in grades 9 to 12.

AB 1148 (Brownley) - Instructional Materials Funding Realignment Program
This bill would require the program to be administered for purposes of funding as if it had been operative at the beginning of the 2007–08 fiscal year, make the program operative on January 1, 2008, and change the inoperative and repeal dates to July 1, 2012, and January 1, 2013, respectively. It would additionally state the intent of the Legislature that school districts be provided with as many standards-aligned

instructional material options as possible, so that educators may have many rigorous options in choosing the best materials that meet the needs of all pupils, including English learners and pupils with disabilities, and that ensure that their pupils are able to master the academic content standards. This bill, commencing on January 1, 2010, would require the State Board to consider price as one factor when determining whether to approve the adoption of submitted instruction materials, and would require the State Board to establish guidelines. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1177 (Solorio)
This bill would establish the Accelerated English Acquisition and Literacy Pilot Program, to be administered by the Superintendent of Public Instruction with the assistance of an external independent research organization, for the purpose of developing instructional materials in English specifically designed for English language development and literacy and studying the impact of those instructional materials on accelerating language development and reading/language arts achievement. The bill would require the development by a publisher of instructional materials, to be selected by participating school districts of a comprehensive program of instructional materials in reading/language arts/English language development designed for English learners, related professional development, and program evaluation. School district that has under its jurisdiction schools or classrooms serving kindergarten and grades 1 to 8 with an enrollment of 50 percent or more English learners would eligible to apply to participate in the pilot program and would require the Superintendent, with the assistance of the external independent research organization, to select a maximum of 10 school districts to participate in the pilot program. The bill would require the Superintendent to select an independent research organization to design and implement an evaluation of the pilot program. The research organization would be required to submit, by September 1, 2012, and every 2 years thereafter, an evaluation report that would include specified information to the Superintendent, the State Board of Education, and the chairpersons of the appropriate policy committees of the Legislature. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1599 (Mendoza)-Instructional Materials
This bill would establish the Pupil Support Instructional Materials Account within the State Treasury and would require that the funds in the account be used to supplement, rather than to supplant, existing funds available for instructional materials. This bill would authorize the State Board to deny future funding if it determines that a school district has exhibited a pattern of a failure to exercise due diligence or of using the funding to supplant other funding sources. This bill would repeal the Instructional Materials Funding Realignment Program inoperative and repeal dates, thereby extending the program indefinitely. This measure is now a two-year bill and is currently in the Assembly Education Committee.

SB 733 (Torlakson) – Instructional Materials Funding Realignment Program
This bill would extend the operation of the Instructional Materials Funding Realignment Program, which is scheduled to expire on July 1, 2007, and is repealed on January 1,

2008. The bill would also require the Program to be administered for purposes of funding as if it had been operative at the beginning of the 2007–08 fiscal year, make the program operative on January 1, 2008, and change the inoperative and repeal dates to July 1, 2015, and January 1, 2016, respectively. The program helps school districts ensure that each pupil is provided with standards-aligned textbook or basic instructional materials as adopted by the State Board of Education. This bill is sponsored by the Superintendent of Public Instruction and is currently in the Senate Appropriations Committee.

SB 734 (Torlakson) - Instructional Materials: Follow-up Adoptions
This bill would reenact a provision that, until January 1, 2007, required the State Department of Education, prior to conducting a follow-up adoption, to notify all publishers and manufacturers known to produce basic instructional materials that a fee will be assessed based on the number of products the publisher or manufacturer indicates will be submitted. A review of a submission would be prohibited from being conducted until the fee is paid in full. The revenue derived from that fee would be continuously appropriated to the department and would be available to the department from year to year until expended. It would further authorize CDE to charge fees for out-of-cycle social content reviews, which is a practice supported in current regulations, but not in statute. This bill is sponsored by the Superintendent of Public Instruction and is currently in the Senate Appropriations Committee.

4. Support professional development for teachers on the adopted instructional materials that are used in the classroom.

AB 37 (Solorio) – English Language Teacher Development
This bill would state the intent of the Legislature to provide public school teachers with professional development opportunities in order to improve the instruction of English learners. This bill is now a two-year bill and is currently in the Assembly Rules Committee.

AB 1027 (Caballero)
This bill would authorize a local educational agency to use up to 25 percent of its Mathematics and Reading Professional Development Program funds, except for those funds appropriated for the purpose of providing professional development to teachers of English language learners, for instruction and training that has not been adopted or approved by the State Board, in order to provide teachers with intensive training in mathematical content. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 44 (Torlakson) – CA Teacher Cadet Program
This bill would establish the California Teacher Cadet Program, to be operated by the California Center on Teaching Careers in conjunction with the Superintendent of Public Instruction and the Chancellor of the California State University. The bill would require the California State University to convene an advisory committee to accomplish both of

the following: to develop a common core curriculum designed to expose college students to teaching careers and the education system through the development of a hands-on curriculum; and to develop criteria and standards that would be used to create a request-for-proposal for the competitive grant program established under the bill. The bill would require a school district that participates in the California Teacher Cadet Program to receive a one-time grant of up to $1,500 for the startup of the program at its schoolsite. The bill, subject to the availability of funding, would require the California State University to contract for an evaluation of this program and report to the Legislature no later than January 1, 2011. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

SB 600 (Scott) – Classroom Teacher Instructional Improvement Program
This bill has been significantly amended and no longer addresses education related issues.

SB 960 (Alquist) – Mathematics and Reading Professional Development Program
This bill would add science to the subjects provided for teacher training under the Mathematics and Reading Professional Development Program and would change the name of the program to the California Educators' Professional Development Program. The bill would require the Superintendent to appoint an advisory committee that would be required to make recommendations to the Superintendent in order to ensure the quality and effectiveness of the training provided pursuant to the program. This bill is sponsored by the Superintendent of Public Instruction. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

5. Maintain the assessment and accountability system (including STAR, EAP, CAHSEE, and CELDT).

AB 144 (Coto) - Pupil testing: high school exit examination: Franklin-McKinley School District
This bill would require the State Department of Education to provide the mathematics portion of the high school exit examination to the Franklin-McKinley School District for administration to students enrolled in grade 8 on the dates designated by the Superintendent of Public Instruction for the administration of that portion of the examination to pupils in grade 10. The bill would authorize the district to administer the mathematics portion of the examination on those dates designated by the Superintendent to pupils enrolled in grade 8 in the district. Students in grade 8 would be prohibited from taking the mathematics portion of the examination more than one time during a school year. If a student in grade 8 passes the mathematics portion of the examination h/she will be considered to have passed that portion of the examination for purposes of satisfying the requirement for receipt of a diploma of graduation or the condition of graduation from high school, and cannot be required to retake the mathematics portion of the examination. The bill would repeal those provisions on January 1, 2010. This measure has passed the Assembly and is currently in the Senate Education Committee.

AB 252 (Coto) - STAR Program: Primary Language Assessment
Current law prohibits districts from using the standards-based tests in Spanish (STS), for Spanish immersion programs as their year-end assessment. This bill would allow districts to order STS from the current STAR contractor and require districts to cover any costs associated with administration, scoring and reporting of these tests for populations other than Spanish-speaking English learners. This bill is sponsored by the Superintendent of Public Instruction. This measure has passed the Assembly and is currently located in the Senate Education Committee.

AB 400 (Nunez) – Adjusting the Academic Performance Index (API)
This bill, commencing with the 2008–09 fiscal year, would require the Superintendent of Public Instruction to incorporate, into the API, high school graduation rates, attendance rates, rates by which pupils are offered and actually complete a course of study that fulfills the requirements and prerequisites for admission to California public institutions of postsecondary education, and rates by which pupils are offered and actually complete a course of study that provides the skills and knowledge necessary to attain entry-level employment in business or industry when they graduate from high school. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 438 (Price) – School Accountability; II/USP and HP Exit Criteria
Aligns exit criteria for the Immediate Intervention/Underperforming Schools Program (II/USP) and the High Priority Schools Grant Program (HPSGP) by requiring schools to meet or exceed Academic Performance Index (API) growth targets averaged over three years for HPSGP and two years for II/USP to exit the state accountability programs. This measure has passed the Assembly Committees on Education and Appropriations and is currently on the Assembly Floor.

AB 925 (Hancock) – School Accountability; Annual Yearly Progress
This bill would declare the intent of the Legislature to enact legislation that would define “proficient” for purposes of calculating adequate yearly progress pursuant to the No Child Left Behind Act to determine if local educational agencies are meeting grade-level requirements. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1353 (Huff) – Standardized Testing and Reporting: Second Grade
This bill would require that the STAR test continue to be administered to pupils in grade 2 on and after July 1, 2007, until those provisions are repealed on January 1, 2011. This measure is now a two-year bill and is in the Assembly Education Committee.

AB 1379 (Brownley) – California High School Exit Examination
This bill would require the Superintendent of Public Instruction, in consultation with the Secretary for Education and the High School Exit Examination Standards Panel, to identify additional criteria and measures by which high school pupils who are regarded as proficient but unable to pass the high school exit examination may demonstrate their competence and receive a high school diploma. The Superintendent is required to report his or her findings and make recommendations for the development of a multiple

measures approach to the Legislature no later than an unspecified date. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 123 (Romero) – California High School Exit Examination
This bill would require the Superintendent of Public Instruction, with the approval of the State Board, to recommend to the Legislature, by June 1, 2008, for its consideration a course of action regarding students with disabilities who meet all state and local graduation requirements except the passage of the high school exit examination. The bill would require this course of action to include alternative ways of evaluating the knowledge and skills that are required to pass the high school exit examination so that these pupils may demonstrate that they possess that knowledge and those skills through alternative methods. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

SB 827 (Padilla) - California English Language Development Test (CELDT) Kindergarten and Grade 1
This bill would require the tests to have sufficient range to assess pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills, and would require pupils in kindergarten and grade 1 to be assessed in English listening, speaking, and early literacy skills. The State Department of Education would be required, in developing the test for pupils in kindergarten and grade 1, to minimize any additional testing time and to ensure that the test is age and developmentally appropriate, as specified. The bill would require the tests to be age and developmentally appropriate for pupils. This bill is sponsored by the Superintendent of Public Instruction. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

6. Insure that the California Commission on Teacher Credentialing (CTC) and all teacher training institutes use State Board adopted standards as the basis for determining the subject matter competency of teacher candidates.

AB 1415 (Brownley) – Teacher Development Accountability Report Card
This bill would require, on or before January 1, 2010, the State Department of Education, in consultation with the Commission on Teacher Credentialing, to recommend and the State Board of Education to adopt an accountability report card capable of assessing the effectiveness of each accredited program of professional preparation. The bill would require the effectiveness of programs to be assessed on multiple measures, including the ability to prepare candidates showing the greatest improvements in student learning, passage rates on certification examinations, and program completion, placement, and retention rates. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 43 (Torlakson) - Governor's Teaching Fellowships Program
This bill would require, commencing with the 2008-09 fiscal year and for each fiscal year thereafter, that the number of fellowships awarded under the Governor's Teaching Fellowships program be determined pursuant to an appropriation in the annual Budget Act. The bill would require the intersegmental review committee to advise the Chancellor on the needs of fellowship recipients who are students in segments other than the California State University, and would reduce the number of the members on the committee from 12 to 9, as specified. The bill would require a fellowship recipient to agree to teach in a high-priority school for 3 consecutive years within 4 years of the completion of his or her preparation program, and would require a recipient of funds under the program on or after January 1, 2008, to forfeit any future payments if he or she fails to complete any portion of his or her obligation to teach in a high-priority school for 3 years. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

SB 52 (Scott) - Teacher credentialing: designated subjects: career technical education
This bill would change the designated subjects vocational education teaching credentials to the designated subjects preliminary career technical education teaching credential and would repeal the Commission on Teacher Credentialing’s authority for the issuance and renewal of designated subjects teaching credentials for part-time service. The bill would require the Commission to establish a list of authorized subjects for the designated subjects preliminary and professional clear career technical education teaching credential and would require the list to reflect the 15 industry sectors identified in the California career technical education model curriculum standards adopted by the State Board of Education. The bill would require the Commission to implement the authorized subjects list by September 30, 2007. This measure passed the Senate and is currently awaiting referral to an Assembly Policy Committee.

SB 112 (Scott) - Teachers: state basic skills proficiency examination.
This bill would delete existing law that outlines the specific exemptions under which a local education agency may hire a certificated person who cannot demonstrate basic skills proficiency. It would instead exempt a person who (1) has passed the state basic skills proficiency examination at least once, (2) achieved a passing score on the Graduate Record Examinations (GRE) General Test, the Scholastic Aptitude Test (SAT) Reasoning Test, or the ACT Plus Writing test, or (3) possessed a credential before the enactment of the statute that made the test a requirement. This measure passed the Senate and is currently in the Assembly Education Committee.

7. Strengthen coordination between K-12 and higher education.

AB 145 (Coto) - CA Center for Applied Research to Improve Latino Participation in Science, Technology, Engineering, and Mathematics Degree Programs and Professions
This bill would establish the California Center for Applied Research to Improve Latino Participation in Science, Technology, Engineering, and Mathematics Degree Programs and Professions as a 3-year pilot project to be implemented by the National Hispanic University and San Jose State University as a public-private partnership with the purpose of increasing the number of Latino pupils in San Mateo, Santa Clara, Alameda, San Benito, and Santa Cruz Counties who complete the requirements for admission to California public institutions of higher education, and increasing the number of Latino students who enroll in science, technology, engineering, and mathematics related majors and complete a degree program in those majors. The bill would require the center to submit a report to the Legislature by August 15 of each year of the pilot project on progress made towards meeting the specified project outcomes. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 428 (Carter) – Parental Notification of College Preparatory Courses
This bill would require each school offering any of grades 9 to 12, inclusive, each semester prior to class registration to provide parents and pupils with a separate written notification relating to the courses offered by the school which satisfy the subject requirements for admission to the California State University and the University of California and a summary of the progress of the pupil toward satisfying those requirements. The bill would require the State Department of Education to provide a brief, 2-page template to be used for the notification, and to establish, if necessary, and include, in that template, the percentage of course offerings the state recommends a school offer to satisfy the subject requirements for admission to the California State University and the University of California. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 405 (Steinberg) – Student Achievement
This bill would establish, until January 1, 2014, the Fair Competition for College and Career Pilot Program, to be administered by the Superintendent of Public Instruction. The Superintendent would be required to invite comprehensive high schools, based on specified criteria, to apply for the program and to select up to 100 schools for participation in the program. Schools participating in the program would receive grants of $100 per pupil to be used to increase the course offerings of the school and provide support for the pupils related to career technical education and courses satisfying the admission requirements for California public institutions of postsecondary education. It would also require the Academic Performance Index to include additional indicators related to the completion rates of coursework required for admission to the California public institutions of postsecondary education and career technical education coursework that meets the curriculum framework adopted by the State Board of

Education. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Other bills sponsored by the State Superintendent of Public Instruction

AB 347 (Nava) - CAHSEE: Additional Instructional Time
This bill would declare the intent of the Legislature to ensure that pupils who have not passed the high school exit examination by the end of grade 12 are provided additional assistance to prepare for and pass the exit examination. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 415 (Karnette) - High School Diploma and CAHSEE Instruction in Adult Education Programs
This bill would provide continuously enrolled high school students and adult students the option to participate in adult secondary education, adult basic education, and ESL courses, for the purposes of passing the CAHSEE. Additionally, if the adult school has exceeded its A.D.A. cap, it would provide adult school students full access to the high school diploma by eliminating the cap A.D.A. limitation in the elementary and secondary basic skills programs which lead to the high school diploma. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 485 (Solorio) – Non-public Schools Re-certification
This bill would prohibit a nonpublic, nonsectarian school or agency whose certification has been revoked, and certain other persons involved with the school or agency, from being eligible to apply for recertification for 2 years from the revocation date. The bill would require a local educational agency that is aware that a nonpublic, nonsectarian school or agency has violated the certification requirements immediately to contact the State Department of Education and report this information. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 685 (Karnette) – IDEA Regulatory Technical Compliance Measure
This bill would make technical changes to various provisions of existing law regarding individuals with exceptional needs and special education and related services to conform various provisions to the new federal regulations, update cross-references in response to those regulations, and make other clarifying changes. This measure passed the Assembly on consent and is currently in the Senate Education Committee.

AB 647 (Salas) – Tobacco Use and Prevention Education Program
This bill changes the method of allocating Tobacco Use and Prevention Education (TUPE) funds to a single competitive grant. The grants are for intervention and

cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1216 (Laird) – State and Federal Accountability Alignment
The purpose of this bill will be to align timelines and sanctions of state and federal accountability programs. It also sunsets the Immediate Intervention/Underperforming Schools Program July 1, 2010. This bill is sponsored by the Superintendent of Public Instruction. This measure has passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1230 (Laird) – Charter School Health Screenings
This bill would bring charter schools into compliance with public schools in regards to health screenings. This bill would require charter schools to provide the pupil sight and hearing test and the scoliosis screening. In order to meet this requirement, a charter school would be authorized to contract with a school district or county office of education to provide the test and screening. Existing law requires the governing board of a school district to provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district, subject to specified exceptions. The governing board of a school district also is required to provide a scoliosis screening to each female pupil in 7th grade and each male pupil in 8th grade. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1656 (Feuer/DeSaulnier) – The Accurate Student Achievement Data Act of 2007
This measure would establish an ongoing grant program to provide local educational agencies (LEA) the funding necessary to ensure that student-level data is being collected, maintained and submitted accurately to properly track and assess student academic performance and dropout and graduation rates. This bill would help ensure quality student-level data in the state's longitudinal data system currently under development by establishing a reasonable $5 per enrolled pupil or a flat amount for small LEAs to support the new workload associated with collecting, maintaining, and submitting student level data. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1663 (Evans/Lieber) – IDEA Regulatory Policy Compliance Measure
This bill would make various revisions conforming state law to federal requirements relating to, among others, pupil identification, assessment, and eligibility; individualized education program development, including notice, implementation, and review; procedural safeguards, including due process hearing procedures and requirements; and pupil information confidentiality. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 132 (Committee on Education) – Annual Education Omnibus Bill
This is the Department of Education's annual education omnibus bill that will make various technical, non-substantive changes to the education code. This measure passed the Assembly and is currently in the Senate Education Committee.

SB 830 (Kehoe) – California Partnership Academies
This bill would expand the number of maximum partnership academies from 290 to 500 by June 30, 2013, increasing by 55 academies each year. It would also increase program offerings to include ninth grade pupils. Previously, academies served 10 through 12 grade pupils. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Other Bills of Interest to the State Board

Charter Schools

AB 557 (Huff) – Charter School Revocation
This bill would require a charter school to cease operations if its appeal contesting the violations for which it was ordered to cease operations were upheld by the county board of education. Further, it would require that funding be ceased upon revocation by the county board unless the state board overturns the county board's decision. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 766 (Walters) – Charter Schools Waiver Authority
This bill seeks to clarify that charter schools have immunity protection provided similar to public schools in connection with student field trips and other student transportation activities. Currently the statute that provides such immunity to public schools for school field trips does not specifically include charter schools. Consistent with the Legislature's overall approach of treating charter schools similarly as public schools, the bill seeks to close this statutory gap. This bill passed the Assembly and is currently in the Senate Education Committee.

SB 345 (Aanestad) – Charter Schools Waiver Process
This bill authorizes charter schools to request, and the State Board of Education (SBE) to approve, waivers from the education code. Waiver requests would first be sent to the charter's authorizing entity which would be required to conduct a public hearing on the request within 90 days of receipt. After the hearing, the authorizing entity would submit the request along with a summary of the hearing to the SBE. Should the authorizing entity recommend denial of the waiver request, this bill would further require that it document the reasons for denial. This bill would also permit the chief executive officer of a charter school to issue work permits to pupils, and would clarify the authorization of charter to schedule salary payments. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Facilities

AB 100 (Mullin) - Kindergarten-University Public Education Facilities Bond Act of 2008
This bill would enact the Kindergarten-University Public Education Facilities Bond Act of 2008. The bond act would provide for the issuance of $9,087,000,000 of state general obligation bonds to provide aid to school districts, county superintendents of schools, and county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

Funding

AB 25 (Brownley) – K-12 Funding
This bill would require, the Governor's Advisory Committee on Education Excellence and the P-16 Council established by the Superintendent of Public Instruction, to work together to develop a report by July 1, 2009, for submission to the Legislature that would provide the Legislature with adequate information to enable it to establish the reasonable costs of schools offering K-12 instruction and to determine the best use of available resources so that the vast majority of pupils may meet academic performance standards established by the state. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 120 (Laird) - 2007-08 Budget Bill
This is the Assembly's Budget bill that will make appropriations for support of state government for the 2007-08 fiscal year. This measure is in the Assembly Budget Committee.

AB 73 (Dymally) - School attendance
This bill would revise the method of determining the ADA in regular elementary, middle, and high schools to, instead, divide the sum of the active enrollment figures reported for those schools during each period by the number of school months in which those figures were calculated during that period. The bill would require that average daily attendance in continuation schools and classes be determined by dividing the total number of days of attendance allowed in all full school months in each period by the number of days the schools and classes are actually taught in all full school months in each period. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 50 (Torlakson)- Claim against the state: appropriation
This bill is an urgency measure and would appropriate $268,000 from the General Fund to the Attorney General to pay for the judgment in the case of California Teachers Association v. Governor Schwarzenegger (Sacramento Superior Court, Case No. 05 CS01165). Any funds leftover would revert to the General Fund at the end of the fiscal year (June 30) in which the final payment is made. This bill passed the Senate and is awaiting referral to a policy committee in the Assembly.

SB 54 (Ducheny) – 2007-08 Budget Bill
This is the Senate's budget bill that will make appropriations for support of state government for the 2007-08 fiscal year. This measure is currently in the Senate Appropriations Committee.

SB 146 (Scott) – Revenue Limits Readjustment
This bill would replace average daily attendance as it is used to compute revenue limits under a specified provision with average monthly enrollment beginning in the 2008-09 fiscal year. The Superintendent of Public Instruction would be required, on July 1, 2008 to make a one-time adjustment to the revenue limit per unit of average monthly enrollment of each school district by revising the prior fiscal year revenue limit per unit of average daily attendance. The resulting, adjusted revenue limit would be used as the revenue limit for the 2008-09 fiscal year for any purpose for which that revenue limit is needed. The Superintendent also would be required to compute the average monthly enrollment of each elementary, high school, and unified school district for the 2007-08 school year using the active enrollment of those school districts as reported in a specified provision. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Governance

AB 45 (Swanson) – Oakland Unified School District
This bill establishes a process for returning rights, duties, and legal powers from the Superintendent of Public Instruction (SPI) to the governing board of the Oakland Unified School District (OUSD). This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

Preschool and Kindergarten

AB 571 (Jones) – Preschool Access
This bill requires all three and four-year-olds from low-income families to have access to state preschool programs by 2011-12, with priority for four-year-old children. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 683 (Runner) – Kindergarten and 1st Grade Admission
This bill would change the required birthday for kindergarten and 1st grade admission to September 1 for the 2009–10 school year and each school year thereafter. In order to compensate school districts for the loss in average daily attendance resulting from changing the required age for kindergarten admission, the bill would increase the number of units of average daily attendance computed for a school district for purposes of that revenue limit calculation for each of the 2010–11 to 2021–22 fiscal years, inclusive, according to a specified calculation. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 1052 (Torrico) – English Language Leaner Preschool Teachers
This bill would require the State Department of Education to establish and implement a demonstration program that includes 3 counties in the state and provides for training and career ladder opportunities for preschool teachers who provide instruction to limited-English-proficient children, as defined. Three grants of $450,000 each would be awarded per year for 3 years. Institutions of higher education, early childhood educational agencies, local educational agencies, nonprofit organizations, or consortia of those entities within each participating county would be eligible to receive those grant funds. The department, within one year of the completion date of the program, would be required to prepare and submit to the Legislature a report that includes recommendations regarding the continuation of the program and state and federal policy changes needed to support the goals of the program. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1080 (Mullin) – Preschool funding
This bill would require a participating state preschool program, if funds from the $45 million provided in the 2006 budget are offered under a new competitive bidding process after January 1, 2008, to maintain an existing class, to maintain that class within the attendance area of the elementary school pursuant to the program's original grant. If funds from the $45,000,000 amount are offered under a new competitive bidding process after January 1, 2008, to establish a new class or classes, the funds would be assigned to programs located in the attendance area of elementary schools ranked in any of deciles 1 to 3, inclusive, on the most recent base Academic Performance Index. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1236 (Mullin) – Kindergarten Readiness Program
This bill would repeal the kindergarten readiness pilot program and would establish instead the kindergarten readiness program, to be administered by the Superintendent of Public Instruction who would be required to promulgate rules and regulations governing the program. The bill would require that kindergarten readiness classes be taught by a teacher who holds a credential issued by the Commission on Teacher Credentialing that authorizes services in kindergarten or a baccalaureate degree with 24 units in early care and education with a professional development plan that provides for a credential within five years. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 944 (Padilla) – Preschool Data Tracking
This bill, to the extent that funding is made available in the annual Budget Act or other statute, would require the State Department of Education to collect, aggregate, and analyze data regarding child care and development programs and, commencing in January, 2010, annually report its findings to the Legislature. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Health and Nutrition

AB 629 (Brownley) – Sexual Health Education Accountability Act
This bill would enact the Sexual Health Education Accountability Act, which would require any program that provides education to prevent adolescent or unintended pregnancy or to prevent sexually transmitted infections that is administered or publicly administered to meet specified criteria relating to instruction, instruction principles and medication in order to qualify for state funding. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1503 (Fuller) – Pupil Nutrition: reimbursement
This bill would make specified child development programs eligible for the $0.21 reimbursement, would revise the requirements for reimbursement and would prohibit the sale or serving of any food item whose development, processing, or preparation requires the item to be, at any time, deep fried, par-fried, flash-fried, or fried in any other manner and would define those terms. The bill would require school districts, charter schools, and county superintendents of schools, in order to qualify for reimbursement, to begin the process of eliminating foods sold and served to pupils that contain unnatural or manufactured trans fats. In addition, this bill would limit the cost-of-living adjustment to the amount of funding appropriated in the annual Budget Act and would set the reimbursement rate commencing with the 2006-07 fiscal year at $0.1563. This bill would also provide that these provisions be implemented only if moneys are appropriated for this purpose in the annual Budget Act. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 20 (Torlakson) - Pupil nutrition: free and reduced-price meals: reimbursement
This bill would increase the reimbursement rate for free and reduced-price meals to from $0.21 to $0.30 for schools and child development programs and would change school eligibility requirements. The requirements would be phased in. During the phase-in period, a school or program that does not meet those requirements for the increased reimbursement rate would receive the reimbursement rate specified under the Child Nutrition Act of 1974. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Leadership

AB 96 (Feuer) – Principal Leadership Development
This bill would express the intent of the Legislature to devote increased resources to leadership training for current school principals and the next generation of school principals in California, with a particular emphasis on enhancing the performance of low-performing schools. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 961 (Scott) – Leadership Coaching Program for Public School Administrators.
This bill would establish the leadership coaching program for public school administrators to be administered by the Superintendent of Public Instruction. Providers of leadership coaching would be required to submit a program proposal to the Superintendent, to offer a coaching training and certification program that includes specified components, to build and maintain a network of certified coaches designed to maintain and deepen coaching skills, and to provide certified coaches with up-to-date training and information on educational issues and coaching research. School administrators in participating school districts, county offices of education, and charter schools would be required to possess a valid California administrative services credential, have a minimum of 5 years' successful administrative experience, and provide specified evidence of other characteristics conducive to successful coaching in order to be eligible to receive leadership coaching. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Learning Support

AB 50 (Soto) - Nell Soto Parent/Teacher Involvement Program: high school exit examination: home visits
This bill would expand the schoolsite staff eligible to participate in the home visits and community meetings under the Nell Soto Parent/Teacher Involvement Program and direct the Superintendent of Public Instruction to give funding priority to schools ranked in the lowest 3 deciles of the Academic Performance Index. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 131 (Beall) – Middle and High School Supplemental Counseling Program
This bill would make the Middle and High School Supplemental School Counseling Program available to county offices of education. Current law requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, and the availability of career guidance activities. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 173 (Alarcon/Dymally) – Comprehensive Pupil Support Program
This bill would establish the Comprehensive Pupil Support Program. The Superintendent of Public Instruction would be required to administer that program, in which schools and school districts may voluntarily participate after participating in a specified planning and application process. The bill would require that schools participating in the program have a schoolsite council, which would be required to develop a school plan, with specified components, for increasing the API score of the school and the academic performance of all pupils, with special emphasis on the needs of high-risk pupils. Schools ranked in the 3 lowest deciles of the API and schools in

geographically diverse areas of the state would have priority for participation in the program. A school participating in the program would be required to report to the Superintendent, annually, specified information regarding the progress of the participating school toward achieving certain goals. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 491 (Carter) – Student to Counselor Ratios
This bill would state legislative findings and declarations regarding the importance of school counselors and the current status of the counselor-to-pupil ratio in the state. The bill would also declare the intent of the Legislature to increase the number of credentialed school counselors to meet counselor-to-pupil ratios of one counselor per 500 pupils by 2010 and one counselor per 250 pupils by 2012. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 584 (Swanson) – School-based Program Coordination
This bill would reauthorize a school district that participates in school-based program coordination to establish an alternative education and work center for school dropouts and pupils at risk at a continuation high school or adult school, or to contract with a private nonprofit community-based organization to provide the center. The center would be required to teach basic academic skills, operate on a clinical, client-centered basis, and provide programs that include specified qualities. The bill would require the Superintendent of Public Instruction to publish guidelines regarding the development and implementation of alternative education and work center programs, train site personnel, establish a clearinghouse for information regarding the identification, prevention, and recovery of school dropouts, disseminate information, and monitor these programs. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

Reporting

AB 1015 (Brownley) – School Accountability Report Card
This bill would amend the Classroom Instructional Improvement and Accountability Act, which outlines what is reported in the School Accountability Report Card, to require that the assessment of estimated expenditures per pupil include a reporting of the average of actual salaries paid to fully credentialed teachers and teachers with emergency teaching permits. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 602 (Torlakson) – Physical Education Incentive Grants Program
This bill would require the department to ensure that the data collected through Categorical Program Monitoring (CPM) indicates the extent to which each school performs specified duties regarding the provision of instruction in physical education, including, providing the required minimum minutes of instruction and conducting physical fitness testing. The bill would require the department to annually submit a report to the Governor and the Legislature that summarizes the data collected through CPM regarding those items and to annually post a summary of that data on the Internet Web site of the department. This bill would establish the Physical Education Incentive

Grants Program to be administered by the Superintendent of Public Instruction. The bill would require the Superintendent to apportion funding to eligible local educational agencies, as specified, for purposes of hiring teachers with clear single subject credentials in physical education. The bill would require the Superintendent to require the recipient local educational agency to provide a percentage match of its own funds for purposes of the program based on the amount of funds apportioned and the financial means of the local educational agency. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

Re-organization

AB 146 (Smyth) - School districts: reorganization of large districts
This bill would require the reorganization of any unified school district enrolling at least 500,000 pupils into several school districts enrolling no more than 50,000 pupils, by July 1, 2011. The bill would require the establishment of a commission to aid in the reorganization process and develop a reorganization plan. The bill would limit the budget of the commission to a fixed amount drawn from the administrative budget for the existing school district, without reducing funds used for classroom education. The bill would require the reorganization plan to demonstrate that certain specified conditions have been met with regard to the formation of the new school districts. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 180 (Bass) – School District Reorganization
This bill would require the state board to render a decision upon receipt of an appeal to reorganize a school district, within 60 days of the date of receipt of the appeal. This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 69 (Runner) – Reorganization of Large School Districts
This bill would require the reorganization of any unified school district enrolling at least 500,000 pupils into several school districts enrolling no more than 50,000 pupils, by July 1, 2011. The bill would require the establishment of a commission to aid in the reorganization process and develop a reorganization plan. The bill would limit the budget of the commission to a fixed amount drawn from the administrative budget for the existing school district, without reducing funds used for classroom education. The bill would require the reorganization plan to demonstrate that certain specified conditions have been met with regard to the formation of the new school districts. This bill is now a two-year bill and currently sits in the Senate Education Committee.

Special Education

AB 795 (Keene) – Special Education Funding; Licensed Children’s Institutions
Requires the state, for out-out-county foster children residing in a licensed children's institution (LCI) who have been certified as seriously emotionally disturbed by the mental health director from the county of jurisdiction, to assume the educational costs incurred in any fiscal year by a special education local plan area (SELPA) in excess of the revenue received. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1085 (Richardson) – Pupils with Hearing Impairment
This bill requires parents of a hearing impaired child to file a written certificate with the school district stating that he or she, or a family member, has completed an age-appropriate course on specified communication options for his or her child This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

AB 1659 (Lieber) – Procedural Safeguards
This bill would require the CDE to enter into an interagency agreement with another state agency, or contract with a nonprofit organization or entity, to conduct mediation conferences between parents and school districts if a conflict arises from a student with special needs Individual Education Plan (IEP). It would also require CDE to enter into an interagency agreement with another state agency, or contract with a nonprofit organization or entity, to conduct due process hearings. The bill would require the interagency agreement or contract for conducting mediation conferences to make mediator positions available to a narrowly defined set of individuals who are not attorneys. In addition, the bill would preclude any hearing officer who has conducted a mediation from conducting due process hearings in the near future. It would also make other substantive changes to special education law too numerous to list here. This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 679 (Romero) – Alternative Schools
This bill establishes new minimum school day requirements for county community schools and continuation schools, establishes a process for monitoring the academic progress of pupils in independent study and revises requirements for the establishment of an alternative accountability system for schools serving high risk pupils, such as community schools and continuation schools. This measure passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

SB 802 (Romero) – Alternative Schools
This bill significantly revises authorization and funding for alternative educational settings that primarily serve pupils that have been suspended, expelled or referred by probation officers. It revises county community schools so that they cease to be alternative schools for pupils, who have been expelled, are on probation or have been referred for a specified reason; and restricts county community schools to enrolling pupils who are homeless or pupils who are not in attendance at any school. Replaces, as of the 2009-10 fiscal year, revenue limit funding for alternative education with a categorical block grant. Repeals authorization for all continuation schools, including continuation high schools, and district operated community day schools. Calls for up to $5 million to be made available as of 2008-09 to strengthen alternative education. This bill is now a two-year bill and currently sits in the Senate Education Committee.

Waivers

AB 494 (Huffman) – Expedited School Waiver Status
This bill would require the State Board and the department to review and act on a waiver request on an expedited basis, and with a minimum amount of documentation, of a school district with at least 70 percent of its schools receiving Academic Performance Index scores of 800 or more in each of the 2 prior years. This measure passed the Assembly and is currently in the Senate Education Committee.

Assembly and Senate Education and Higher Education Committee Membership

Senate Education Committee
Senator Jack Scott (Chair) (D – Pasadena)
Senator Mark Wyland (Vice Chair) (R – Escondido)
Senator Elaine Alquist (D – Santa Clara)
Senator Jeff Denham (R – Merced)
Senator Abel Maldonado (R – Santa Maria)
Senator Alex Padilla (D – Pacoima)
Senator Gloria Romero (D – Los Angeles)
Senator Joe Simitian (D – Palo Alto)
Senator Tom Torlakson (D – Antioch)

Assembly Education Committee
Assembly Member Gene Mullin (Chair) (D – S. San Francisco)
Assembly Member Martin Garrick (Vice-Chair) (R – Del Mar)
Assembly Member Julia Brownley (D – Agoura Hills)
Assembly Member Joe Coto (D – San Jose)
Assembly Member Mike Eng (D – Monterey Park)
Assembly Member Loni Hancock (D – Berkeley)
Assembly Member Bob Huff (R – Diamond Bar)
Assembly Member Betty Karnette (D – Long Beach)
Assembly Member Alan Nakanishi (R – Lodi)
Assembly Member Jose Solorio (D – Santa Ana)

Assembly Higher Education Committee
Assembly Member Anthony Portantino (Chair) (D – La Canada Flintridge)
Assembly Member Shirley Horton (Vice-Chair) (R – Chula Vista)
Assembly Member Juan Arambula (D – Fresno)
Assembly Member Jim Beall, Jr. (D – Campbell)
Assembly Member Paul Cook (R – Beaumont)
Assembly Member Cathleen Galgiani (D – Tracy)
Assembly Member Ira Ruskin (D – Redwood City)

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 5, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Andrea Ball, Deputy Superintendent
Government Affairs

RE: Item No. 5

SUBJECT: Legislative updates, including but not limited to information on legislation from the 2007-08 legislative session

This is a revised Legislative update that reflects action on legislation of interest to the State Board of Education prior to June 26, 2007

Legislative Update

Bills Related to State Board (SBE) of Education Principles

1. Safeguard the State Board of Education adopted academic content standards as the foundation of California's K-12 educational system; the same standards for <u>all</u> children.

SB 126 (Harman) - Health education content standards: child abuse prevention
This measure has been significantly amended and no longer addresses child abuse prevention education standards.

2. Insure that curriculum is rigorous, standards-aligned, and research-based utilizing State Board adopted materials or standards-aligned textbooks in grades 9 to 12, to prepare children for college or the workforce.

AB 32 (Fuller) - Career technical education: work certification training
This bill would state the intent of the Legislature to provide, within the public school system, work certification training options with particular emphasis on job specific skilled labor and technical training to students 16 to 18 years old who have passed the high school exit examination, and have the consent of their parents or guardians.

This measure was held in the Assembly Appropriations Committee.

AB 72 (Dymally) – Filipino Veterans and World War II
This bill would require the instruction in social science for grades 7 to 12 of World War II and the role of Filipinos in that war. This bill would make the requirement applicable when the curriculum materials to be used for compliance are purchased by a school district in its normal course of business and purchasing cycles.

This measure passed the Assembly and the Senate Education Committee and is currently on the Senate Floor.

AB 88 (Lieu) - Pupil instruction: Internet safety curriculum guidelines
This bill would require the State Department of Education to develop and maintain Internet safety curriculum guidelines for use by local educational agencies. The bill would also require the department to distribute the guidelines to local educational agencies, upon approval of the guidelines by the State Board of Education.

This measure has passed the Assembly and is currently in the Senate Education Committee.

AB 150 (Lieu) – Financial Literacy
This bill would establish the California Financial Literacy Initiative for the purpose of improving financial literacy by offering materials for teachers and schools to provide

high-quality financial literacy education for pupils in kindergarten and grades 1 to 12. The initiative would be administered by the California Financial Literacy Council that would be established within the State Department of Education and would consist of representatives of CDE, the office of the Treasurer, the Department of Corporations, the Department of Financial Institutions, and the office of the Controller. The council would be required to oversee the initiative and, among other things, to provide a clearinghouse of financial literacy resources and materials to be made available for schools and teachers.

This measure has passed the Assembly and the Senate Education Committee and is on suspense in the Senate Education Committee.

AB 178 (Coto) - College Readiness and Equity Program
This bill would establish the 3-year College Readiness and Equity Program to be administered by the State Department of Education. The bill would provide funding through the program, in the form of a one-time $150 per pupil grant to participating high schools that make a 3-year commitment to enroll all incoming pupils in the sequence of courses, including applicable career technical education courses, that satisfy the prerequisites for admission to the California public institutions of postsecondary education. The bill would require the department to contract with an independent evaluator to evaluate the program and report to the legislature.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 216 (Bass) - Special education: nonpublic, nonsectarian schools
This bill gives the flexibility for non-public, non-sectarian schools (NPS) that provide special education to offer curricula and instructional materials that are standards-based (and adopted by the State Board of Education, for K-8 materials) but that are not necessarily used by the local educational agency in which the NPS is located.

This measure has passed the Assembly and is currently on the Senate Floor.

AB 750 (Carter) – Technology Curriculum
This bill would declare the intent of the Legislature to enact legislation to expand technology curriculum in the public middle and high schools and to ensure that school districts annually consult with certain public postsecondary institutions to make sure that the coursework the secondary school offers is honored by the postsecondary institutions.

This measure failed to pass the Assembly Education Committee but has been granted reconsideration. It is now a two-year bill.

AB 1320 (Carter) – Civic Engagement
This bill would allow students an excused absence if they are serving as a member of a precinct board or engaging in leadership or civic engagement activities. The bill would exempt the pupil participating in one of those activities from the requirement that the pupil participate in the activity for 5 or more consecutive schooldays in order for his or her attendance to be included, if the pupil is required to complete all missed assignments and tests and a report or written assignment on the subject of the activities

engaged in by the pupil. Requires the Superintendent of Public Instruction to adopt criteria and definitions to provide guidance school districts in determining activities that constitute eligible leadership and civic engagement activities, and disseminate a letter containing the criteria and definitions to all school districts.

This measure passed the Assembly Education Committee but was held in the Assembly Appropriations Committee.

AB 1454 (Richardson) – Content Standards Review
This bill would repeal the authority of the State Board to modify proposed content and performance standards. The statement and exemption related to the Administrative Procedure Act also would be repealed. This bill would also require the Superintendent of Public Instruction to appoint content standards review panels in each subject area pursuant to specified panel membership requirements. A content standards review panel would be required to review the content standards established in its particular subject matter, revise the standards as it deems necessary, and forward the revisions to the State Board. The State Board would be required to adopt or reject the standards within 120 days of receipt.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1522 (Brownley) – California Student Aid Commission
This measure would require the California Student Aid Commission to develop and make available a software program, for use by potential applicants, to facilitate identifying and applying for institutional, state, and federal student aid programs.

This measure is now a two-year bill is currently in the Assembly Higher Education Committee.

SB 15 (Wyland) – Career Technical Education Vision Council
This bill would create the Career Technical Education Vision Council to make recommendations regarding career technical education, as specified, and to develop a workforce preparation and strategic plan on or before December 31, 2008. The bill would create the Career Technical Education Vision Fund, funds of which would be continuously appropriated to the Council, and would permit the Council to accept private donations for these purposes.

This measure is now a two-year bill is currently in the Senate Education Committee.

SB 602 (Torlakson) – Physical Education Incentive Grants Program
This bill would establish the Physical Education Incentive Grants Program to be administered by the Superintendent of Public Instruction. The bill would require the Superintendent to apportion funding to eligible local educational agencies, as specified, for purposes of hiring teachers with clear single subject credentials in physical education. The bill would require the Superintendent to require the recipient local educational agency to provide a percentage match of its own funds for purposes of the program based on the amount of funds apportioned and the financial means of the local educational agency.

This measure was held in the Senate Appropriations Committee.

3. Insure the availability of State Board of Education adopted instructional materials for Kindergarten and grades 1 to 8 and locally adopted standards-aligned instructional materials in grades 9 to 12.

AB 1148 (Brownley) - Instructional Materials Funding Realignment Program
This bill would require the program to be administered for purposes of funding as if it had been operative at the beginning of the 2007–08 fiscal year, make the program operative on January 1, 2008, and change the inoperative and repeal dates to July 1, 2012, and January 1, 2013, respectively. It would additionally state the intent of the Legislature that school districts be provided with as many standards-aligned instructional material options as possible, so that educators may have many rigorous options in choosing the best materials that meet the needs of all pupils, including English learners and pupils with disabilities, and that ensure that their pupils are able to master the academic content standards. This bill, commencing on January 1, 2012, would require the state board, when it establishes evaluation criteria for the adoption of instructional materials in each content area, to consider the potential costs to publishers of developing the instructional materials. This bill would require the state board to identify the essential components of instructional materials that, if purchased by local educational agencies, will meet the requirements of full alignment to the content standards for the grade levels in which the materials are to be used and require publishers to identify these components on the lists and order forms they provide to local educational agencies.

This measure has passed the Assembly Floor and is currently in the Senate Education Committee.

AB 1177 (Solorio) – Instructional Materials
This bill would establish the Accelerated English Acquisition and Literacy Pilot Program, to be administered by the Superintendent of Public Instruction with the assistance of an advisory committee, for the purpose of developing instructional materials in English specifically designed for English language development and literacy and studying the impact of those instructional materials on accelerating language development and reading/language arts achievement. The bill would require the development by a publisher of instructional materials, to be selected by participating school districts of a comprehensive program of instructional materials in reading/language arts/English language development designed for English learners, related professional development, and program evaluation. School district that has under its jurisdiction schools or classrooms serving kindergarten and grades 1 to 8 with an enrollment of 50 percent or more English learners would eligible to apply to participate in the pilot program and would require the Superintendent, with the assistance of an advisory committee, to select a maximum of 10 school districts to participate in the pilot program. The bill would require the Superintendent to select an independent research organization to design and implement an evaluation of the pilot program. The research organization would be required to submit, by September 1, 2012, and every 2 years thereafter, an evaluation report that would include specified information to the Superintendent, the State Board of Education, and the chairpersons of the appropriate policy committees of the Legislature.

This measure has passed the Assembly and is currently in the Senate Education Committee.

AB 1599 (Mendoza) - Instructional Materials
This bill would establish the Pupil Support Instructional Materials Account within the State Treasury and would require that the funds in the account be used to supplement, rather than to supplant, existing funds available for instructional materials. This bill would authorize the State Board to deny future funding if it determines that a school district has exhibited a pattern of a failure to exercise due diligence or of using the funding to supplant other funding sources. This bill would repeal the Instructional Materials Funding Realignment Program inoperative and repeal dates, thereby extending the program indefinitely.

This measure is now a two-year bill and is currently in the Assembly Education Committee.

SB 733 (Torlakson) – Instructional Materials Funding Realignment Program
This bill would extend the operation of the Instructional Materials Funding Realignment Program, which is scheduled to expire on July 1, 2007, and is repealed on January 1, 2008. The bill would also require the Program to be administered for purposes of funding as if it had been operative at the beginning of the 2007–08 fiscal year, make the program operative on January 1, 2008, and change the inoperative and repeal dates to July 1, 2015, and January 1, 2016, respectively. The program helps school districts ensure that each pupil is provided with standards-aligned textbook or basic instructional materials as adopted by the State Board of Education. This bill is sponsored by the Superintendent of Public Instruction.

It passed the Senate and is currently in the Assembly Education Committee.

SB 734 (Torlakson) - Instructional Materials: Follow-up Adoptions
This bill would reenact a provision that, until January 1, 2007, required the State Department of Education, prior to conducting a follow-up adoption, to notify all publishers and manufacturers known to produce basic instructional materials that a fee will be assessed based on the number of products the publisher or manufacturer indicates will be submitted. A review of a submission would be prohibited from being conducted until the fee is paid in full. The revenue derived from that fee would be continuously appropriated to the department and would be available to the department from year to year until expended. It would further authorize CDE to charge fees for out-of-cycle social content reviews, which is a practice supported in current regulations, but not in statute. This bill was amended in the Assembly Education Committee with a 3 year sunset. This bill is sponsored by the Superintendent of Public Instruction.

It passed the Senate and is currently in the Assembly Education Committee.

4. Support professional development for teachers on the adopted instructional materials that are used in the classroom.

AB 37 (Solorio) – English Language Teacher Development
This bill would state the intent of the Legislature to provide public school teachers with professional development opportunities in order to improve the instruction of English learners.

This bill is now a two-year bill and is currently in the Assembly Rules Committee.

AB 1027 (Caballero)
This bill would authorize a local educational agency to use up to 25 percent of its Mathematics and Reading Professional Development Program funds, except for those funds appropriated for the purpose of providing professional development to teachers of English language learners, for instruction and training that has not been adopted or approved by the State Board, in order to provide teachers with intensive training in mathematical content.

This measure was held in the Assembly Appropriations Committee.

SB 44 (Torlakson) – CA Teacher Cadet Program
This bill creates the California Teacher Cadet Program (CTCP) to encourage high school students to consider teaching careers and expresses legislative intent to create Professional Development Schools (PDSs) for teacher education. The CTCP would be operated by the Superintendent of Public Instruction (SPI) and the California State University (CSU) Chancellor who would be required to convene an advisory committee composed of public school teachers, administrators, and university faculty to develop a common core teacher cadet curriculum for the CTCP. The bill would require the SPI to authorize up to 200 schools to receive one-time grants of up to $1,500 for start-up costs associated with implementing a local CTCP to be started no later than fall of 2008.

This measure passed the Senate and is currently in the Assembly Education Committee.

SB 600 (Scott) – Classroom Teacher Instructional Improvement Program
This bill has been significantly amended and no longer addresses education related issues.

5. Maintain the assessment and accountability system (including STAR, EAP, CAHSEE, and CELDT).

AB 144 (Coto) - Pupil testing: high school exit examination: Franklin-McKinley School District
This bill authorizes the Franklin-McKinley Elementary School District (FMESD), until January 1, 2010, to offer the mathematics portion of the California High School Exit Exam (CAHSEE) to eighth grade pupils enrolled in specified mathematics classes. This bill specifies that eighth grade pupils enrolled in algebra I, geometry, or algebra II are authorized to take the mathematics portion of the CAHSEE and deems a FMESD eighth grade pupil who passes the mathematics portion of the CAHSEE to have passed this portion for the purpose of meeting the CAHSEE graduation requirement. The bill further specifies that any eighth grade pupil who takes and passes the mathematics portion of

the CAHSEE must still take the test in the tenth grade. It also requires FMESD to pay all costs associated with the administration of this test.

This measure has passed the Senate Education Committee and is currently in the Senate Appropriations Committee.

AB 252 (Coto) - STAR Program: Primary Language Assessment
Current law prohibits districts from using the standards-based tests in Spanish (STS), for Spanish immersion programs as their year-end assessment. This bill would allow districts to order STS from the current STAR contractor and require districts to cover any costs associated with administration, scoring and reporting of these tests for populations other than Spanish-speaking English learners. This bill is sponsored by the Superintendent of Public Instruction.

This measure has passed the Assembly and is currently in the Senate Appropriations Committee.

AB 400 (Nunez) – Adjusting the Academic Performance Index (API)
This bill, commencing with the 2009–10 fiscal year, would require the Superintendent of Public Instruction to incorporate, into the API, high school graduation rates, rates by which pupils are offered and actually complete a course of study that fulfills the requirements and prerequisites for admission to California public institutions of postsecondary education, and rates by which pupils are offered and actually complete a course of study that provides the skills and knowledge necessary to attain entry-level employment in business or industry when they graduate from high school.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 438 (Price) – School Accountability; II/USP and HP Exit Criteria
This bill revises exit criteria for the Immediate Intervention/Underperforming Schools Program (II/USP) and the High Priority Schools Grant Program (HP) by requiring schools to meet or exceed Academic Performance Index (API) growth targets averaged over three years for HPSGP and averaged over two years for II/USP for numerically significant subgroups to exit the state accountability programs.

This measure passed the Assembly and is currently in the Senate Appropriations Committee.

AB 925 (Hancock) – School Accountability; Annual Yearly Progress
This bill would declare the intent of the Legislature to enact legislation that would define “proficient” for purposes of calculating adequate yearly progress pursuant to the No Child Left Behind Act to determine if local educational agencies are meeting grade-level requirements.

This measure passed the Assembly and is in the Senate Education Committee.

AB 1353 (Huff) – Standardized Testing and Reporting: Second Grade
This bill would require that the STAR test continue to be administered to pupils in grade 2 on and after July 1, 2007, until those provisions are repealed on January 1, 2011.

This measure is now a two-year bill and is in the Assembly Education Committee.

AB 1379 (Brownley) – California High School Exit Examination
This bill would require the Superintendent of Public Instruction, in consultation with the Secretary for Education and the High School Exit Examination Standards Panel, to identify additional criteria and measures by which high school pupils who are regarded as proficient but unable to pass the high school exit examination may demonstrate their competence and receive a high school diploma. The Superintendent is required to report his or her findings and make recommendations for the development of a multiple measures approach to the Legislature no later than October 1, 2008.

This measure passed the Assembly Floor and is currently in the Senate Education Committee.

SB 123 (Romero) – California High School Exit Examination
This bill requires school districts to establish alternative means for special education pupils to satisfy the exit exam requirement for high school graduation, including the juried assessment of pupil performance on tasks assigned in the individual educational plan of the pupil. This measure was amended in Senate Appropriations to require these students to take the exam in grade 10 and grade 11.

This measure passed the Senate Floor and is currently in the Assembly Education Committee.

SB 219 (Steinberg) – Academic Performance Index
This bill requires the Superintendent of Public Instruction to modify the Academic Performance Index of schools to include information on the schools drop-out rates, as well as the test scores of the pupils who have been referred to alternative educational settings, thereby interrupting the pupils' continuous enrollment at the school.

This bill passed the Senate and is currently located in the Assembly Education Committee.

SB 827 (Padilla) - California English Language Development Test (CELDT) Kindergarten and Grade 1
This bill would require the tests to have sufficient range to assess pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills, and would require pupils in kindergarten and grade 1 to be assessed in English listening, speaking, and early literacy skills. The State Department of Education would be required, in developing the test for pupils in kindergarten and grade 1, to minimize any additional testing time and to ensure that the test is age and developmentally appropriate, as specified. The bill would require the tests to be age and developmentally appropriate for pupils. This bill is sponsored by the Superintendent of Public Instruction.

This measure passed the Senate Education Committee but was held in the Senate Appropriations Committee.

6. Insure that the California Commission on Teacher Credentialing (CTC) and all teacher training institutes use State Board adopted standards as the basis for determining the subject matter competency of teacher candidates.

AB 1415 (Brownley) – Teacher Development Accountability Report Card
This bill would require, on or before January 1, 2010, the State Department of Education, in consultation with the Commission on Teacher Credentialing, to recommend and the State Board of Education to adopt an accountability report card capable of assessing the effectiveness of each accredited program of professional preparation. The bill would require the effectiveness of programs to be assessed on multiple measures, including the ability to prepare candidates showing the greatest improvements in student learning, passage rates on certification examinations, and program completion, placement, and retention rates.

This measure passed the Assembly and is currently in the Senate Education Committee.

SB 43 (Torlakson) - Governor's Teaching Fellowships Program
Initially, this bill was introduced to expand the Governor's Teaching Fellowships Program. This bill has been significantly amended to require the California Teacher Commission (CTC) to issue a Preliminary Recruitment of Experienced Professionals (PREP) credential to any person who applies for the credential on or before January 1, 2013, and displays knowledge and expertise in a subject area as demonstrated by the possession of specified qualifications upon the recommendation of the governing board of a school district until January 1, 2017. The credential would be a preliminary single subject teaching credential and would authorize teaching in the subject or subject area, or the performance of services, approved by the commission and designated on the credential. The CTC would also be required to approve and designate, on the credential, the grade level or levels for which the credential is valid.

It would further authorize the credential to be issued initially for a 2-year period and to be renewed for an additional one-year period upon the recommendation of the school board, after which the holder would be eligible for a professional clear teaching credential upon recommendation of the governing board of a school district and the demonstration of basic pedagogical skills. It would also require the CTC to report to the Legislature on or before February 1, 2012, on the number of PREP credentials issued in each subject, the retention rates of candidates who receive a PREP credential, and recommendations for improvement to the program. This bill is currently awaiting referral to a policy committee by the Senate Rules Committee after it was heavily amended into its current form.

This measure passed the Senate and is currently in the Assembly Education Committee.

SB 52 (Scott) - Teacher credentialing: designated subjects: career technical education
This bill would change the designated subjects vocational education teaching credentials to the designated subjects preliminary career technical education teaching credential and would repeal the Commission on Teacher Credentialing’s authority for

the issuance and renewal of designated subjects teaching credentials for part-time service. The bill would require the Commission to establish a list of authorized subjects for the designated subjects preliminary and professional clear career technical education teaching credential and would require the list to reflect the 15 industry sectors identified in the California career technical education model curriculum standards adopted by the State Board of Education. The bill would require the Commission to implement the authorized subjects list by September 30, 2007.

This measure passed the Senate and is currently in the Assembly Education Committee.

SB 112 (Scott) - Teachers: state basic skills proficiency examination.
This bill was initially introduced to delete existing law that outlines the specific exemptions under which a local education agency may hire a certificated person who cannot demonstrate basic skills proficiency. It has since been significantly amended to exempt retired teachers who return to service taking the California Basic Educational Skills Test (CBEST) and specifies that retired teachers do not need to participate in induction programs for new teachers.

This measure passed the Senate and is currently in the Assembly Appropriations Committee.

7. Strengthen coordination between K-12 and higher education.

AB 145 (Coto) - CA Center for Applied Research to Improve Latino Participation in Science, Technology, Engineering, and Mathematics Degree Programs and Professions
This bill would establish the California Center for Applied Research to Improve Latino Participation in Science, Technology, Engineering, and Mathematics Degree Programs and Professions as a 3-year pilot project to be implemented by the National Hispanic University and San Jose State University as a public-private partnership with the purpose of increasing the number of Latino pupils in San Mateo, Santa Clara, Alameda, San Benito, and Santa Cruz Counties who complete the requirements for admission to California public institutions of higher education, and increasing the number of Latino students who enroll in science, technology, engineering, and mathematics related majors and complete a degree program in those majors. The bill would require the center to submit a report to the Legislature by August 15 of each year of the pilot project on progress made towards meeting the specified project outcomes.

This measure passed the Assembly Education Committee but was held in the Assembly Appropriations Committee.

AB 428 (Carter) – Parental Notification of College Preparatory Courses
This measure would require each school district offering any of 9-12 grades, as part of the annual notification required by existing law, to provide parents and pupils with written notice relating to the admission requirements for California's public universities,

including a brief explanation of the college admission requirements, a list of the courses offered in that academic year by the school district that satisfy the college admission requirements, and the percentage of course sections offered by the school district that satisfy those requirements.

This measure passed the Assembly and is currently in the Senate Education Committee.

SB 405 (Steinberg) – Student Achievement
This bill would establish, until January 1, 2014, the Fair Competition for College and Career Pilot Program, to be administered by the Superintendent of Public Instruction. The Superintendent would be required to invite comprehensive high schools, based on specified criteria, to apply for the program and to select up to 100 schools for participation in the program. Schools participating in the program would receive grants of $100 per pupil to be used to increase the course offerings of the school and provide support for the pupils related to career technical education and courses satisfying the admission requirements for California public institutions of postsecondary education. It would also require the Academic Performance Index to include additional indicators related to the completion rates of coursework required for admission to the California public institutions of postsecondary education and career technical education coursework that meets the curriculum framework adopted by the State Board of Education.

This measure passed the Senate and is in the Assembly Education Committee.

Other bills sponsored by the State Superintendent of Public Instruction

AB 347 (Nava) - CAHSEE: Additional Instructional Time
This bill would declare the intent of the Legislature to ensure that pupils who have not passed the high school exit examination by the end of grade 12 are provided additional assistance to prepare for and pass the exit examination.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 415 (Karnette) - High School Diploma and CAHSEE Instruction in Adult Education Programs
This bill would provide continuously enrolled high school students and adult students the option to participate in adult secondary education, adult basic education, and ESL courses, for the purposes of passing the CAHSEE. Additionally, if the adult school has exceeded its A.D.A. cap, it would provide adult school students full access to the high school diploma by eliminating the cap A.D.A. limitation in the elementary and secondary basic skills programs which lead to the high school diploma.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 485 (Solorio) – Non-public Schools Re-certification
This bill would prohibit a nonpublic, nonsectarian school or agency whose certification has been revoked, and certain other persons involved with the school or agency, from being eligible to apply for recertification for 2 years from the revocation date. The bill would require a local educational agency that is aware that a nonpublic, nonsectarian school or agency has violated the certification requirements immediately to contact the State Department of Education and report this information.

This measure passed the Assembly and is currently in the Senate Appropriations Committee.

AB 685 (Karnette) – IDEA Regulatory Technical Compliance Measure
This bill would make technical changes to various provisions of existing law regarding individuals with exceptional needs and special education and related services to conform various provisions to the new federal regulations, update cross-references in response to those regulations, and make other clarifying changes.

This measure passed the Senate and is on concurrence in Senate Amendments on the Assembly Floor. If it passes, it will go to the Governor for his veto/signature.

AB 647 (Salas) – Tobacco Use and Prevention Education Program
This bill changes the method of allocating Tobacco Use and Prevention Education (TUPE) funds to a single competitive grant. The grants are for intervention and cessation activities in order to reduce the number of pupils who begin to use tobacco, continue to use tobacco, or both. This measure passed the Assembly and is currently in the Senate Appropriations Committee.

AB 1216 (Laird) – State and Federal Accountability Alignment
The purpose of this bill will be to align timelines and sanctions of state and federal accountability programs. It also sunsets the Immediate Intervention/Underperforming Schools Program July 1, 2010.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1230 (Laird) – Charter School Health Screenings
This bill would bring charter schools into compliance with public schools in regards to health screenings. This bill would require charter schools to provide the pupil sight and hearing test and the scoliosis screening. In order to meet this requirement, a charter school would be authorized to contract with a school district or county office of education to provide the test and screening. Existing law requires the governing board of a school district to provide for the testing of the sight and hearing of each pupil enrolled in the schools of the district, subject to specified exceptions. The governing board of a school district also is required to provide a scoliosis screening to each female pupil in 7th grade and each male pupil in 8th grade.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1656 (Feuer/DeSaulnier) – The Accurate Student Achievement Data Act of 2007
This measure would establish an ongoing grant program to provide local educational agencies (LEA) the funding necessary to ensure that student-level data is being collected, maintained and submitted accurately to properly track and assess student academic performance and dropout and graduation rates. This bill would help ensure quality student-level data in the state's longitudinal data system currently under development by establishing a reasonable $5 per enrolled pupil or a flat amount for small LEAs to support the new workload associated with collecting, maintaining, and submitting student level data.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1663 (Evans/Lieber) – IDEA Regulatory Policy Compliance Measure
This bill would make various revisions conforming state law to federal requirements relating to, among others, pupil identification, assessment, and eligibility; individualized education program development, including notice, implementation, and review; procedural safeguards, including due process hearing procedures and requirements; and pupil information confidentiality.

This measure passed the Assembly and is currently in the Senate Education Committee.

SB 132 (Committee on Education) – Annual Education Omnibus Bill
This is the Department of Education's annual education omnibus bill that will make various technical, non-substantive changes to the education code.

This measure passed the Senate and is currently in the Assembly Education Committee.

SB 830 (Kehoe) – California Partnership Academies
This bill would implement the P-16 Council's strong recommendation to expand and enhance the number of California Partnership Academies (CPAs) in the state. Specifically, it would increase funding districts receive from $900 to $1,000 per pupil regardless of grade level or age of the program. It would, upon a budget appropriation increase the number of state-sponsored CPAs by 20 each year for five years beginning in 2008-09. This would bring the total number of academies from 290 to 390 by the year 2012-13. It would also, upon a budget appropriation allow for current and future CPAs to include grade 9 instruction at 50 a year beginning in 2008-09. Currently, academies provide instruction for grades 10 through 12.

This measure passed the Senate and is currently on suspense in the Assembly Education Committee.

SB 960 (Alquist) – Mathematics and Reading Professional Development Program
This bill would add science to the subjects provided for teacher training under the Mathematics and Reading Professional Development Program and would change the name of the program to the California Educators' Professional Development Program. The bill would require the Superintendent to appoint an advisory committee that would

be required to make recommendations to the Superintendent in order to ensure the quality and effectiveness of the training provided pursuant to the program. This bill is sponsored by the Superintendent of Public Instruction.

This measure is currently in the Assembly Education Committee.

Other Bills of Interest to the State Board

Charter Schools

AB 557 (Huff) – Charter School Revocation
This bill would require a charter school to cease operations if its appeal contesting the violations for which it was ordered to cease operations were upheld by the county board of education. Further, it would require that funding be ceased upon revocation by the county board unless the state board overturns the county board's decision.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 766 (Walters) – Charter Schools Waiver Authority
This bill provides that persons participating in a school field trip or excursion are deemed to have waived claims of liability against a charter school in the same manner that school districts and the State of California are currently exempt from such claims.

This bill passed the Legislature and is on the Governor's desk awaiting his veto/signature.

SB 345 (Aanestad) – Charter Schools Waiver Process
This bill authorizes charter schools to request, and the State Board of Education (SBE) to approve, waivers from the education code. Waiver requests would first be sent to the charter's authorizing entity which would be required to conduct a public hearing on the request within 90 days of receipt. After the hearing, the authorizing entity would submit the request along with a summary of the hearing to the SBE. Should the authorizing entity recommend denial of the waiver request, this bill would further require that it document the reasons for denial. This bill would also permit the chief executive officer of a charter school to issue work permits to pupils, and would clarify the authorization of charter to schedule salary payments.

This measure passed the Senate and is currently in the Assembly Education Committee.

Facilities

AB 100 (Mullin) - Kindergarten-University Public Education Facilities Bond Act of 2008
This bill would enact the Kindergarten-University Public Education Facilities Bond Act of 2008. The bond act would provide for the issuance of $9,087,000,000 of state general

obligation bonds to provide aid to school districts, county superintendents of schools, and county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

Funding

AB 120 (Laird) - 2007-08 Budget Bill
This is the Assembly's Budget bill that will make appropriations for support of state government for the 2007-08 fiscal year.

This measure is in the Assembly Budget Committee.

AB 73 (Dymally) - School attendance
This bill would revise the method of determining the ADA in regular elementary, middle, and high schools to, instead, divide the sum of the active enrollment figures reported for those schools during each period by the number of school months in which those figures were calculated during that period. The bill would require that average daily attendance in continuation schools and classes be determined by dividing the total number of days of attendance allowed in all full school months in each period by the number of days the schools and classes are actually taught in all full school months in each period.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 50 (Torlakson)- Claim against the state: appropriation
This bill is an urgency measure and would appropriate $268,000 from the General Fund to the Attorney General to pay for the judgment in the case of California Teachers Association v. Governor Schwarzenegger (Sacramento Superior Court, Case No. 05 CS01165). Any funds leftover would revert to the General Fund at the end of the fiscal year (June 30) in which the final payment is made.

This bill passed the Senate and is in the Assembly Appropriations Committee.

SB 54 (Ducheny) – 2007-08 Budget Bill
This is the Senate's budget bill that will make appropriations for support of state government for the 2007-08 fiscal year.

This measure is currently in the Senate Appropriations Committee.

SB 146 (Scott) – Revenue Limits Readjustment
This bill would replace average daily attendance as it is used to compute revenue limits under a specified provision with average monthly enrollment beginning in the 2008-09 fiscal year. The Superintendent of Public Instruction would be required, on July 1, 2008 to make a one-time adjustment to the revenue limit per unit of average monthly enrollment of each school district by revising the prior fiscal year revenue limit per unit of average daily attendance. The resulting, adjusted revenue limit would be used as the revenue limit for the 2008-09 fiscal year for any purpose for which that revenue limit is

needed. The Superintendent also would be required to compute the average monthly enrollment of each elementary, high school, and unified school district for the 2007-08 school year using the active enrollment of those school districts as reported in a specified provision.

This measure passed the Senate and is currently in the Assembly Education Committee.

Governance

AB 45 (Swanson) – Oakland Unified School District
This bill establishes a process for returning rights, duties, and legal powers from the Superintendent of Public Instruction (SPI) to the governing board of the Oakland Unified School District (OUSD).

This measure passed the Assembly and is currently in the Senate Education Committee.

Preschool and Kindergarten

AB 571 (Jones) – Preschool Access
This bill requires all three and four-year-olds from low-income families to have access to state preschool programs by 2011-12, with priority for four-year-old children.

This measure passed the Assembly Education Committee but was held in the Assembly Appropriations Committee.

AB 683 (Runner) – Kindergarten and 1st Grade Admission
This bill would change the required birthday for kindergarten and 1st grade admission to September 1 for the 2009–10 school year and each school year thereafter. In order to compensate school districts for the loss in average daily attendance resulting from changing the required age for kindergarten admission, the bill would increase the number of units of average daily attendance computed for a school district for purposes of that revenue limit calculation for each of the 2010–11 to 2021–22 fiscal years, inclusive, according to a specified calculation.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 1052 (Torrico) – English Language Leaner Preschool Teachers
This bill would require the State Department of Education to establish and implement a demonstration program that includes 3 counties in the state and provides for training and career ladder opportunities for preschool teachers who provide instruction to limited-English-proficient children, as defined. Three grants of $450,000 each would be awarded per year for 3 years. Institutions of higher education, early childhood educational agencies, local educational agencies, nonprofit organizations, or consortia of those entities within each participating county would be eligible to receive those grant funds. The department, within one year of the completion date of the program, would be required to prepare and submit to the Legislature a report that includes recommendations regarding the continuation of the program and state and federal policy changes needed to support the goals of the program.

This measure passed the Assembly Education Committee but was held in the Assembly Appropriations Committee.

AB 1080 (Mullin) – Preschool funding
This bill would require a participating state preschool program, if funds from the $45 million provided in the 2006 budget are offered under a new competitive bidding process after January 1, 2008, to maintain an existing class, to maintain that class within the attendance area of the elementary school pursuant to the program's original grant. If funds from the $45,000,000 amount are offered under a new competitive bidding process after January 1, 2008, to establish a new class or classes, the funds would be assigned to programs located in the attendance area of elementary schools ranked in any of deciles 1 to 3, inclusive, on the most recent base Academic Performance Index.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 1236 (Mullin) – Kindergarten Readiness Program
This bill would repeal the kindergarten readiness pilot program and would establish instead the kindergarten readiness program, to be administered by the Superintendent of Public Instruction who would be required to promulgate rules and regulations governing the program. The bill would require that kindergarten readiness classes be taught by a teacher who holds a credential issued by the Commission on Teacher Credentialing that authorizes services in kindergarten or a baccalaureate degree with 24 units in early care and education with a professional development plan that provides for a credential within five years.

This measure passed the Assembly Education Committee and is currently in the Assembly Appropriations Committee.

SB 944 (Padilla) – Preschool Data Tracking
This bill, to the extent that funding is made available in the annual Budget Act or other statute, would require the State Department of Education to collect, aggregate, and analyze data regarding child care and development programs and, commencing in January, 2010, annually report its findings to the Legislature.

This measure passed the Senate Education Committee but was held in the Senate Appropriations Committee.

Health and Nutrition

AB 629 (Brownley) – Sexual Health Education Accountability Act
This bill would enact the Sexual Health Education Accountability Act, which would require any program that provides education to prevent adolescent or unintended pregnancy or to prevent sexually transmitted infections that is administered or publicly administered to meet specified criteria relating to instruction, instruction principles and medication in order to qualify for state funding.

This measure passed the Assembly and has been double referred to the Senate Committees on Health and Education.

AB 1503 (Fuller) – Pupil Nutrition: reimbursement
This bill would make specified child development programs eligible for the $0.21 reimbursement, would revise the requirements for reimbursement and would prohibit the sale or serving of any food item whose development, processing, or preparation requires the item to be, at any time, deep fried, par-fried, flash-fried, or fried in any other manner and would define those terms. The bill would require school districts, charter schools, and county superintendents of schools, in order to qualify for reimbursement, to begin the process of eliminating foods sold and served to pupils that contain unnatural or manufactured trans fats. In addition, this bill would limit the cost-of-living adjustment to the amount of funding appropriated in the annual Budget Act and would set the reimbursement rate commencing with the 2006-07 fiscal year at $0.1563. This bill would also provide that these provisions be implemented only if moneys are appropriated for this purpose in the annual Budget Act.

This measure passed the Assembly and is currently in the Senate Rules Committee awaiting referral to a policy committee.

SB 20 (Torlakson) - Pupil nutrition: free and reduced-price meals: reimbursement
This bill would require schools commencing, with the 07-08 fiscal year, to comply with specified nutritional standards for meals or food items sold or served as part of a free or reduced priced meal program. These standards include but are not limited to the sale of foods that are fried, flash fried or par fried or prepared with unhealthy oils as specified.

This urgency measure passed the Senate and is currently in the Assembly Education Committee

Leadership

AB 96 (Feuer) – Principal Leadership Development
This bill would express the intent of the Legislature to devote increased resources to leadership training for current school principals and the next generation of school principals in California, with a particular emphasis on enhancing the performance of low-performing schools.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 961 (Scott) – Leadership Coaching Program for Public School Administrators.
This bill would establish the leadership coaching program for public school administrators to be administered by the Superintendent of Public Instruction. Providers of leadership coaching would be required to submit a program proposal to the Superintendent, to offer a coaching training and certification program that includes specified components, to build and maintain a network of certified coaches designed to maintain and deepen coaching skills, and to provide certified coaches with up-to-date training and information on educational issues and coaching research. School administrators in participating school districts, county offices of education, and charter schools would be required to possess a valid California administrative services credential, have a minimum of 5 years' successful administrative experience, and

provide specified evidence of other characteristics conducive to successful coaching in order to be eligible to receive leadership coaching.

This measure was held by the Senate Appropriations Committee.

Learning Support

AB 50 (Soto) - Nell Soto Parent/Teacher Involvement Program: high school exit examination: home visits
This bill would expand the schoolsite staff eligible to participate in the home visits and community meetings under the Nell Soto Parent/Teacher Involvement Program and direct the Superintendent of Public Instruction to give funding priority to schools ranked in the lowest 3 deciles of the Academic Performance Index.

This measure passed the Assembly and is currently in the Senate Education Committee.

AB 131 (Beall) – Middle and High School Supplemental Counseling Program
This bill would make the Middle and High School Supplemental School Counseling Program available to county offices of education. Current law requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, and the availability of career guidance activities.

This measure passed the Assembly and is currently on suspense in the Senate Education Committee.

AB 173 (Alarcon/Dymally) – Comprehensive Pupil Support Program
This bill would establish the Comprehensive Pupil Support Program. The Superintendent of Public Instruction would be required to administer that program, in which schools and school districts may voluntarily participate after participating in a specified planning and application process. The bill would require that schools participating in the program have a schoolsite council, which would be required to develop a school plan, with specified components, for increasing the API score of the school and the academic performance of all pupils, with special emphasis on the needs of high-risk pupils. Schools ranked in the 3 lowest deciles of the API and schools in geographically diverse areas of the state would have priority for participation in the program. A school participating in the program would be required to report to the Superintendent, annually, specified information regarding the progress of the participating school toward achieving certain goals.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 491 (Carter) – Student to Counselor Ratios
This bill would state legislative findings and declarations regarding the importance of school counselors and the current status of the counselor-to-pupil ratio in the state. The

bill would also declare the intent of the Legislature to increase the number of credentialed school counselors to meet counselor-to-pupil ratios of one counselor per 500 pupils by 2010 and one counselor per 250 pupils by 2012.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 584 (Swanson) – School-based Program Coordination
This bill would reauthorize a school district that participates in school-based program coordination to establish an alternative education and work center for school dropouts and pupils at risk at a continuation high school or adult school, or to contract with a private nonprofit community-based organization to provide the center. The center would be required to teach basic academic skills, operate on a clinical, client-centered basis, and provide programs that include specified qualities. The bill would require the Superintendent of Public Instruction to publish guidelines regarding the development and implementation of alternative education and work center programs, train site personnel, establish a clearinghouse for information regarding the identification, prevention, and recovery of school dropouts, disseminate information, and monitor these programs.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

Reporting

AB 1015 (Brownley) – School Accountability Report Card
This bill would amend the Classroom Instructional Improvement and Accountability Act, which outlines what is reported in the School Accountability Report Card, to require that the assessment of estimated expenditures per pupil include a reporting of the average of actual salaries paid to fully credentialed teachers and teachers with emergency teaching permits.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 1061 (Mullin) – School Accountability Report Card
This is an administration sponsored bill that modifies the data elements school districts are required to report on the school accountability report card (SARC) for each school.

Specifically, it repeals specified data elements that districts are required to report on the SARC, including duplicative data related to instructional programs, pupil achievement, instructional minutes, and classroom discipline. It would also require the SARC template to be developed by the Department of Education (CDE) to include information on the availability of student/teacher data on the CDE's DataQuest Internet website, a description of admission requirements for the state's higher education institutions, and information on internet access for parents, as specified. CDE would also be required to report to the Governor and the Legislature on the remaining data elements in the SARC and the feasibility of combining data elements by February 1, 2008.

LEAs would be required to make hard copies of its most recent SARC available (upon request) on or before February 1 of each year and post the most recent SARC available on the Internet (beginning February 1, 2008 and each year thereafter).

This measure passed the Assembly and is currently in the Senate Education Committee.

SB 835 (Scott) – School Accountability Report Card
This bill revises the items that must be reported on the School Accountability Report Card (SARC) and requires that school districts make the annually updated SARC available to the public no later than February 1 of the following year.

This bill has passed the Senate and is currently in the Assembly Education Committee.

Re-organization

AB 146 (Smyth) - School districts: reorganization of large districts
This bill would require the reorganization of any unified school district enrolling at least 500,000 pupils into several school districts enrolling no more than 50,000 pupils, by July 1, 2011. The bill would require the establishment of a commission to aid in the reorganization process and develop a reorganization plan. The bill would limit the budget of the commission to a fixed amount drawn from the administrative budget for the existing school district, without reducing funds used for classroom education. The bill would require the reorganization plan to demonstrate that certain specified conditions have been met with regard to the formation of the new school districts.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

AB 180 (Bass) – School District Reorganization
This bill would require the state board to render a decision upon receipt of an appeal to reorganize a school district, within 60 days of the date of receipt of the appeal.

This bill is now a two-year bill and currently sits in the Assembly Education Committee.

SB 69 (Runner) – Reorganization of Large School Districts
This bill would require the reorganization of any unified school district enrolling at least 500,000 pupils into several school districts enrolling no more than 50,000 pupils, by July 1, 2011. The bill would require the establishment of a commission to aid in the reorganization process and develop a reorganization plan. The bill would limit the budget of the commission to a fixed amount drawn from the administrative budget for the existing school district, without reducing funds used for classroom education. The bill would require the reorganization plan to demonstrate that certain specified conditions have been met with regard to the formation of the new school districts.

This bill is now a two-year bill and currently sits in the Senate Education Committee.

Special Education

AB 795 (Keene) – Special Education Funding; Licensed Children’s Institutions
Requires the state, for out-out-county foster children residing in a licensed children's institution (LCI) who have been certified as seriously emotionally disturbed by the mental health director from the county of jurisdiction, to assume the educational costs incurred in any fiscal year by a special education local plan area (SELPA) in excess of the revenue received.

This measure was held in the Assembly Appropriations Committee.

AB 1085 (Richardson) – Pupils with Hearing Impairment
This bill requires parents of a hearing impaired child to file a written certificate with the school district stating that he or she, or a family member, has completed an age-appropriate course on specified communication options for his or her child.

This measure was held in the Assembly Appropriations Committee.

AB 1659 (Lieber) – Procedural Safeguards
This bill would require the CDE to enter into an interagency agreement with another state agency, or contract with a nonprofit organization or entity, to conduct mediation conferences between parents and school districts if a conflict arises from a student with special needs Individual Education Plan (IEP). It would also require CDE to enter into an interagency agreement with another state agency, or contract with a nonprofit organization or entity, to conduct due process hearings. The bill would require the interagency agreement or contract for conducting mediation conferences to make mediator positions available to a narrowly defined set of individuals who are not attorneys. In addition, the bill would preclude any hearing officer who has conducted a mediation from conducting due process hearings in the near future. It would also make other substantive changes to special education law too numerous to list here.

This measure was held in the Assembly Appropriations Committee.

SB 679 (Romero) – Alternative Schools
This bill establishes new minimum school day requirements for county community schools and continuation schools, establishes a process for monitoring the academic progress of pupils in independent study and revises requirements for the establishment of an alternative accountability system for schools serving high risk pupils, such as community schools and continuation schools.

This measure passed the Senate and is currently in the Assembly Education Committee.

SB 802 (Romero) – Alternative Schools
This bill significantly revises authorization and funding for alternative educational settings that primarily serve pupils that have been suspended, expelled or referred by probation officers. It revises county community schools so that they cease to be alternative schools for pupils, who have been expelled, are on probation or have been referred for a specified reason; and restricts county community schools to enrolling pupils who are homeless or pupils who are not in attendance at any school. It also replaces, as of the 2009-10 fiscal year, revenue limit funding for alternative education with a categorical block grant. Repeals authorization for all continuation schools, including continuation high schools, and district operated community day schools. It calls for up to $5 million to be made available as of 2008-09 to strengthen alternative education.

This bill is now a two-year bill and currently sits in the Senate Education Committee.

Waivers

AB 494 (Huffman) – Expedited School Waiver Status
This bill would require the State Board and the department to review and act on a waiver request on an expedited basis, and with a minimum amount of documentation, of a school district with at least 70 percent of its schools receiving Academic Performance Index scores of 800 or more in each of the 2 prior years.

This measure passed the Assembly and is currently in the Senate Education Committee.

Assembly and Senate Education and Higher Education Committee Membership

Senate Education Committee
Senator Jack Scott (Chair) (D – Pasadena)
Senator Mark Wyland (Vice Chair) (R – Escondido)
Senator Elaine Alquist (D – Santa Clara)
Senator Jeff Denham (R – Merced)
Senator Abel Maldonado (R – Santa Maria)
Senator Alex Padilla (D – Pacoima)
Senator Gloria Romero (D – Los Angeles)
Senator Joe Simitian (D – Palo Alto)
Senator Tom Torlakson (D – Antioch)

Assembly Education Committee
Assembly Member Gene Mullin (Chair) (D – S. San Francisco)
Assembly Member Martin Garrick (Vice-Chair) (R – Del Mar)
Assembly Member Julia Brownley (D – Santa Monica)
Assembly Member Joe Coto (D – San Jose)
Assembly Member Mike Eng (D – Monterey Park)
Assembly Member Loni Hancock (D – Berkeley)
Assembly Member Bob Huff (R – Diamond Bar)
Assembly Member Betty Karnette (D – Long Beach)
Assembly Member Alan Nakanishi (R – Lodi)
Assembly Member Jose Solorio (D – Santa Ana)

Assembly Higher Education Committee
Assembly Member Anthony Portantino (Chair) (D – La Canada Flintridge)
Assembly Member Shirley Horton (Vice-Chair) (R – Chula Vista)
Assembly Member Juan Arambula (D – Fresno)
Assembly Member Jim Beall, Jr. (D – Campbell)
Assembly Member Paul Cook (R – Beaumont)
Assembly Member Cathleen Galgiani (D – Tracy)
Assembly Member Ira Ruskin (D – Redwood City)

ITEM #6

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Standardized Testing and Reporting (STAR) Program: Update, including, but not limited to, Program Update	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE approved the Standards-Based Tests in Spanish (STS) blueprints for grades five through seven in July 2006 and approved the California Modified Assessment (CMA) blueprints for grades two through five in May 2007.

SUMMARY OF KEY ISSUES

STAR 2007 Testing Late Deliveries

School districts experienced late delivery of tests this year. State regulations require that a school district shall receive its test materials between 10 and 20 days prior to testing.

- 267 school districts received their STAR test materials less than 10 days prior to testing.
- 1,046 school districts received their STAR test materials within the 10-20 days prior to testing

Update

- CDE and Educational Testing Service (ETS) have worked closely with districts to resolve these issues and provide the necessary support to ensure continuity of the assessment process.
- These late material issues do not impact return of results.

SUMMARY OF KEY ISSUES (Cont.)

- ETS management is putting safeguards into place to ensure that these issues do not repeat.

- ETS staff is conducting a tour of districts to get their feedback on this year's administration and how they, as a contractor, can improve their service.

STAR Test Results

School districts will begin receiving their STAR results beginning in mid-July. All results will be posted on the CDE Web site by August 15 for school districts who completed testing by June 25.

The CDE is preparing documents to assist school districts and the public in interpreting results. The documents, "Explaining 2006 Test Results to Parents and Guardians," and "Explaining 2006 Internet Reports to the Public," will be posted on the STAR Web site at http://www.cde.ca.gov/ta/tg/sr/index.asp.

Post-Test Workshops

The testing contractor will conduct five post-test workshops in August. The first workshop, a video conference and Web cast, will be conducted on August 21–22, 2007, in Sacramento. Additional workshops will be held in Los Angeles, Bakersfield, Santa Clara, and San Diego. The purpose of the workshops is to assist school districts to interpret and use the STAR data.

Data Review for STAR Tests

The Assessment Review Panels (ARPs) for the California Standards Tests (CSTs), the California Alternate Performance Assessment (CAPA), and the STS will meet in late July and early August to review the statistics from the field-test items given in 2007. After these meetings, test forms for 2008 will be developed.

Field Tests in September 2007

The testing contractor is preparing a field test for the STS for grades five through seven and a field test for the CMA for grades two through five. The STS will be administered the week of September 9 and the California Modified Assessment (CMA) will be administered the week of September 24. School districts are currently being recruited to participate.

Standards Setting

A group of educators and community members will be convened for the STS standards setting to propose cut scores for five proficiency levels. This group will meet in late October. The data they will review will be from the spring 2007 test results. It is anticipated that the proposed cut scores will be brought to the SBE in January 2008.

SUMMARY OF KEY ISSUES (Cont.)

The CAPA standards setting will be held in the fall of 2008. In the spring of 2007, four new tasks, based on the CAPA blueprints adopted by the SBE in May 2006, were field tested. In the spring of 2008, all eight tasks will reflect the 2006 blueprints.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs associated with the activities in this update are included in the current contracts with ETS for the CSTs, STS, CAPA, and CMA.

ATTACHMENT(S)

None.

ITEM #~~_____~~#7

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
California High School Exit Examination (CAHSEE): Update including, but not limited to, Program Update	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Amendments to Title 5 *California Code of Regulations*

At its March 7, 2007, meeting, the SBE approved the commencement of the rulemaking process for proposed regulations. The CDE proposed amendments to the Title 5 *California Code of Regulations* for the California High School Exit Examination (CAHSEE) in response to various needs that have arisen over the course of administering the CAHSEE, as well as current law that requires local educational agencies (LEAs) to report data pertaining to students with disabilities.

At its May 9, 2007, meeting, the SBE approved the CDE recommended changes to the regulations from the public comments and the regulations went out for 15-day review period.

SUMMARY OF KEY ISSUES

Update on Amendments to Title 5 *California Code of Regulations*

CDE received no additional comments to the proposed regulations during the 15-day review period ending on May 25, 2007. CDE has submitted the regulations to the Office of Administrative Law.

Release of Independent Evaluation of CAHSEE Request for Proposal (RFP)

On May 23, 2007, the CAHSEE Office released a Request for Proposal (RFP) for the Independent Evaluation of the CAHSEE. Proposals are due to CDE by July 13, 2007.

CDE will be opening bids on July 23, 2007. With Department of General Services (DGS) approval, the contract should start on October 1, 2007.

SUMMARY OF KEY ISSUES (Cont.)

CAHSEE Results Schedule Update

The remaining 2006-07 CAHSEE administration was May 8-9, 2007. The individual student score reports for the May administration will be sent to the school districts by July 13, 2007. The first administration of the 2007-08 school year will be July 24-25, 2007. The individual student score reports for the July administration should arrive at the school districts by September 29, 2007.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs associated with the activities indicated above are included in current contracts.

ATTACHMENT(S)

None.

ITEM #8

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
California High School Exit Examination (CAHSEE): Review local educational agency failure to grant diplomas for certain students under California *Education Code* Section 60852.4	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) pursuant to *Education Code* (*EC*) Section 60852.4, affirm local educational agencies (LEAs) decisions to deny high school diplomas to students who did not meet the exemption criteria specified in *EC* Section 60852.4.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the November 2006 meeting of the SBE, CDE presented its review of 25 exemption denials by seven LEAs. CDE staff recommended that the SBE affirm the LEAs decision to deny the exemption for 25 students. The SBE approved the CDE staff recommendations to affirm each of the 25 exemption denials by the LEAs.

At the January 2007 meeting of the SBE, CDE presented its review of 25 exemption denials by one LEA. CDE staff recommended that the SBE affirm the LEAs decision to deny the exemption for 25 students. The SBE approved the CDE staff recommendations to affirm each of the 25 exemption denials by the LEA.

SUMMARY OF KEY ISSUES

CAHSEE Student with Disabilities Exemption

On September 29, 2006, Senate Bill (SB) 267 was signed into law and took effect immediately, providing a one-year exemption from the requirement to pass the CAHSEE for certain students with disabilities. As a result of the passage of SB 267 (*EC* Section 60852.4), for the 2006-07 school year, all school districts, including charter schools and state special schools (LEAs) are required to grant a high school diploma to students with disabilities under the conditions provided below. If the LEA does not grant a diploma pursuant to this exemption, the SBE must review the LEAs decision and may direct the LEA to grant a high school diploma to the student.

SUMMARY OF KEY ISSUES (Cont.)

An LEA is required to grant a high school diploma to a student with disabilities who meet the following conditions:

1. scheduled to graduate from high school in 2007, but has not passed the CAHSEE,

2. has not been granted a local waiver of the CAHSEE requirement pursuant to *EC* Section 60851 (c), and

3. has met all of the criteria described below.

Students with disabilities are eligible for this exemption if all of the following conditions are met:

1. The pupil has an operative individualized education program (IEP) adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 (a)).

2. The IEP or the Section 504 plan of the pupil, that is dated on or before July 1, 2006, indicates that the pupil has an anticipated graduation from high school on or before December 31, 2007.

3. The school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma by December 31, 2007.

4. The pupil has attempted to pass those sections not yet passed of the CAHSEE at least twice after grade ten, including at least once during the current grade twelve year of the pupil, with the accommodations or modifications, if any, specified in the pupil's IEP or Section 504 Plan of the pupil.

5. Either (A) the pupil has received remedial or supplemental instruction focused on those sections not yet passed of the CAHSEE from his or her school, private tutoring, or another source, or (B) the school district or state special school failed to provide the pupil with the opportunity to receive that remedial or supplemental instruction.

6. If the pupil received remedial or supplemental instruction as described above, the pupil has taken those sections not yet passed of the CAHSEE at least once following the receipt of that remedial or supplemental instruction. This subparagraph does not apply if following the receipt of that remedial or supplemental instruction, there is no further administration of the examination on or before December 31, 2007.

SUMMARY OF KEY ISSUES (Cont.)

7. No later than 30 days prior to the receipt of a diploma in 2007, the pupil, or the parent or legal guardian of the pupil if the pupil is a minor, has been notified in writing pursuant to Section 300.503 of Title 34 Code of Federal Regulations that the pupil is entitled to receive free appropriate public education up to and including the academic year during which the pupil reaches the maximum age pursuant to subdivision (c) of section 56026, or until the pupil receives a high school diploma, whichever event occurs first.

If the LEA denies a student with disabilities a diploma by determining that the student does not meet the criteria for the exemption, the LEA is required to submit documentation of its decision to the SBE within 15 days of denial.

The SBE is required to review any LEA's decision to deny a diploma to a student with disabilities no later than its next regularly scheduled meeting occurring at least 30 days after receiving the documentation. If the SBE finds that the student does meet the criteria, it may direct the LEA to issue that student a high school diploma.

CDE and SBE staff met and developed a process by which this documentation can be reviewed. CDE developed a form (Attachment 1) that is designed to assist LEAs to determine and document student's eligibility for this CAHSEE exemption. On February 2, 2007, the form and instructions were sent to all LEAs that administer the CAHSEE. The form's use is recommended, but not mandatory. CDE has placed instructions to LEAs on the CDE's Web site at: http://www.cde.ca.gov/ta/tg/hs/exemptionltr.asp.

Any LEA submission will be provided an Item Addendum.

FISCAL ANALYSIS (AS APPROPRIATE)

The development of the Exemption Eligibility Verification form and staff time to process the exemption reviews has been conducted internally. Currently, these costs are being absorbed.

ATTACHMENT(S)

Attachment 1: California High School Exit Examination (CAHSEE) Eligibility Verification Form for the Exemption for Students with and Individualized Education Program or Section 504 Plan in the Class of 2007 (1 Page)

LEAs submissions to be reviewed by SBE will be provided as an Item Addendum.

California High School Exit Examination (CAHSEE)

Eligibility Verification Form for the Exemption for Students with an Individualized Education Program or Section 504 Plan in the Class of 2007

Student Identifier (no names): _____

Local Educational Agency: _____

School Name: _____

Eligibility Criteria pursuant to *Education Code* Section 60852.4		
☐ Yes	☐ No	**#1 -** The pupil has an operative individualized education program (IEP) adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 (a)).
☐ Yes	☐ No	**#2 -** The IEP or the Section 504 plan of the pupil, that is dated on or before July 1, 2006, indicates that the pupil has an anticipated graduation from high school on or before December 31, 2007.
☐ Yes	☐ No	**#3 -** The school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma by December 31, 2007.
☐ Yes	☐ No	**#4 -** The pupil has attempted to pass those sections not yet passed of the CAHSEE at least twice after grade ten, including at least once during the current grade twelve year of the pupil, with the accommodations or modifications, if any, specified in the pupil's IEP or Section 504 plan of the pupil.
☐ (A) or ☐ (B)	☐ No	**#5 -** Either (A) the pupil has received remedial or supplemental instruction focused on those sections not yet passed of the CAHSEE from his or her school, private tutoring, or another source, or (B) the school district or state special school failed to provide the pupil with the opportunity to receive that remedial or supplemental instruction.
☐ Yes or ☐ N/A	☐ No	**#6 -** If the pupil received remedial or supplemental instruction as described above, the pupil has taken those sections not yet passed of the CAHSEE at least once following the receipt of that remedial or supplemental instruction. This subparagraph does not apply if following the receipt of that remedial or supplemental instruction, there is no further administration of the examination on or before December 31, 2007.
☐ Yes	☐ No	**#7 -** No later than 30 days prior to the receipt of a diploma in 2007, the pupil, or the parent or legal guardian of the pupil if the pupil is a minor, has been notified in writing pursuant to Section 300.503 of Title 34 Code of Federal Regulations that the pupil is entitled to receive free appropriate public education up to and including the academic year during which the pupil reaches the maximum age pursuant to subdivision (c) of section 56026, or until the pupil receives a high school diploma, whichever event occurs first

If your LEA indicated "no" for any of the criteria above, please describe the specific reasons why the LEA denied this student an exemption from the CAHSEE requirement. (Provide documentation supporting the LEA's decision, including a copy of the student's IEP or Section 504 Plan as described in criteria #2.)

_____

_____

_____

_____

(Please attach additional pages if necessary.)

Signature _____ Date_____

Printed Name:_____ Telephone Number_____

Title:_____

ITEM #9

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
California English Language Development Test (CELDT): Update, including, but not limited to, Program Update and the CELDT 2006-07 Annual Assessment Results	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In May 2007, the SBE received an update regarding the California English Language Development Test (CELDT) contractor's process of reviewing, editing, and producing summary results for CELDT Form F (2006-07). CTB McGraw-Hill (CTB) is the current CELDT test contractor. The CELDT annual assessment window spans the period of July 1 through October 31 each year with initial identification assessments occurring throughout the school year until June 30.

In March 2007, CDE reported to the SBE about the scoring error made by CTB that resulted in the printing and distributing of over 1.2 million corrected student score reports. At that time, it was noted that the reporting of summary results would be delayed due in part to this error.

In January 2007, the SBE received an update regarding changes to the CELDT scale and the impact of new cut scores. The new scale incorporates aspects of a vertical scale as follows:

- Indicates growth from lower to higher grade levels
- Indicates growth within and across adjacent grade spans
- Allows for students at all grade levels to be ranked as Beginners, Early Intermediate, Intermediate, Early Advanced, or Advanced

In March 2006, the SBE received a report on the new reporting scale and standard setting for the CELDT. The 2006 standard setting and updated performance level cut-points for the CELDT were needed to respond to the No Child Left Behind (NCLB) requirement to report separate scores for Listening, Speaking, Reading, and Writing.

SUMMARY OF PREVIOUS (Cont.)

Historically, CELDT results for Listening and Speaking had been scored and reported as a single combined score. The SBE approved the new cut scores and the adjusted performance levels that resulted from the standard setting. The new performance level cut scores for the CELDT took effect July 1, 2006.

SUMMARY OF KEY ISSUES

2006-07 CELDT Annual Assessment Results

CDE directed CTB to provide converted scores for the Form E (2005-06) administration of the CELDT to allow for comparisons during this transition year to Form F (2006-07). CTB conducted an equi-percentile method to derive concordance tables from the original to the new scale using Form E results. The concordance tables were applied to the Form E results reported with the Form F student demographic information. CTB has completed scoring and reporting the Form F annual assessment results. CTB provided the converted Form E and Form F scores to CDE and districts in early June.

The following guidance is provided in terms of comparing this year's results to past years' results (see Figure 1). Only the original cut scores approved by the SBE in 2001 should be used with the original-scale CELDT scores. Only the new cut scores approved by the SBE in March 2006 should be used with the new-scale CELDT scores.

Appropriate Comparisons: 2000-2006

- What scores were appropriate to compare for the original-scale CELDT in 2000 through 2005−06?

- A student's scale scores can be compared from grade to adjacent grade within the same grade span only.

Appropriate Comparisons: 2006 and Beyond

What scores are appropriate to compare to the new-scale CELDT scores in Form F (2006−07)?

- A student's Form F scale scores can be compared to converted Form E (2005−06) scores on the new scale.

- A student's scale scores can be compared from grade level to adjacent grade level within and across grade spans.

SUMMARY OF KEY ISSUES (Cont.)

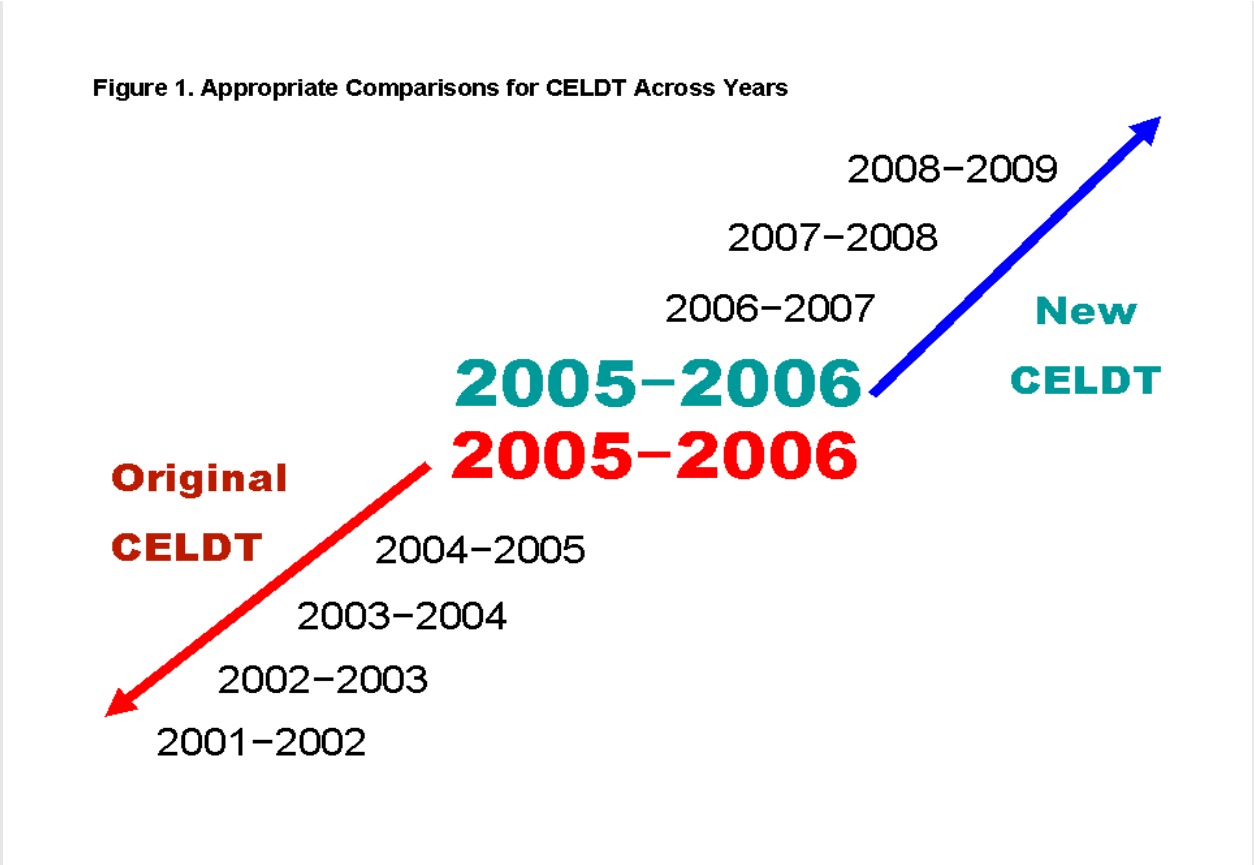


Table 1 presents the number of students by grade span tested for annual assessment purposes since the CDE began CELDT operational testing in 2001.

Table 1. Number of Students Tested during the CELDT Annual Assessment Administration by Grade Span

Test Year	K-2	3-5	6-8	9-12	All Grades	% Difference
2006-07	335,139	422,176	285.609	268,188	1,311,112	-1%
2005-06	324,320	439,130	299,087	266,662	1,329,159	-1%
2004-05	325,443	446,567	305,000	265,944	1,342,954	-1%
2003-04	343,201	448,007	310,253	256,293	1,357,754	4%
2002-03	328,971	432,974	296,218	239,272	1,297,435	3%
2001-02	326,665	417,531	286,070	232,030	1,262,296	---

SUMMARY OF KEY ISSUES (Cont.)

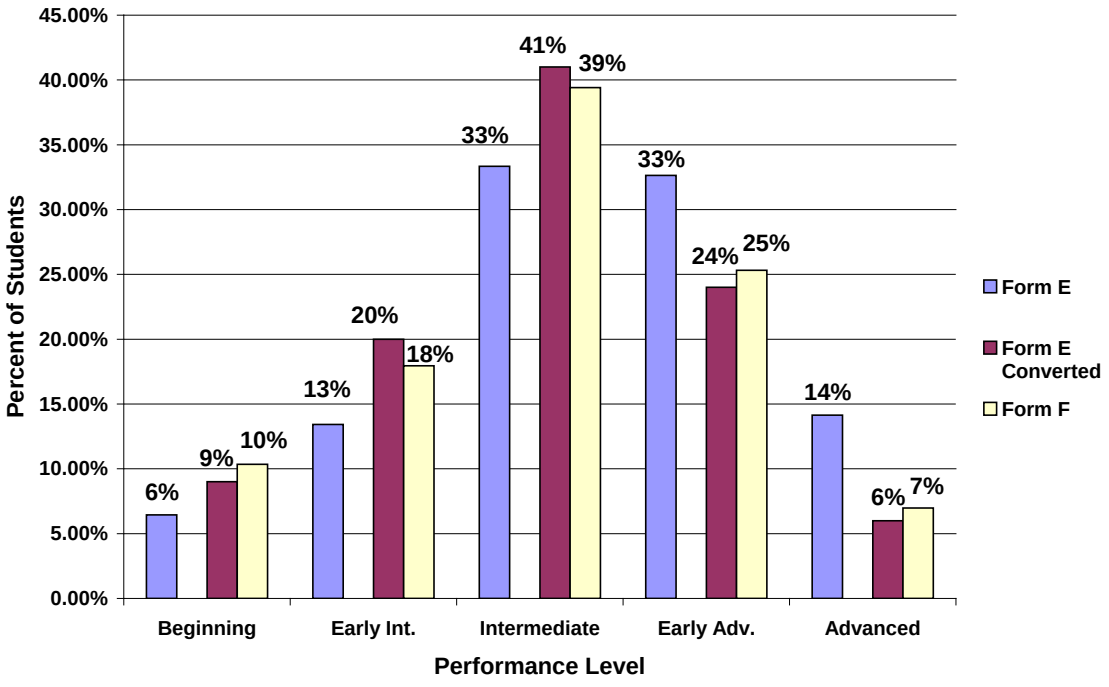
- For the 2006-07 school year, a total of 1,311,112 English learners took the CELDT to assess their English language proficiency. There were 46,642 fewer test takers this year than at the highest point noted in 2003-04.

- The number of English learners assessed during the 2006-07 annual assessment decreased slightly (one percent) compared to the number assessed in 2005-06.

- The number of students taking the CELDT for annual assessment purposes has decreased slightly in each of the past three years.

Figure 2 provides a bar chart that displays the percent of students who fall into each of the five performance levels based on the 2005-06 Form E unconverted results, the 2005-06 Form E converted results, and the 2006-07 Form F results. The Form E unconverted results are provided only as a reference point to results on the old scale. It is not appropriate to directly compare Form E unconverted results to Form F. The appropriate comparison is Form E converted to Form F results because this comparison is based on the same scale.

Figure 2. CELDT Annual Assessment Results, All Students



SUMMARY OF KEY ISSUES (Cont.)

- The percentage of English learners scoring Early Advanced and Advanced on the CELDT was somewhat higher when compared to Form E converted results for last year. The percentage of English learners scoring Beginning was up by one percent.

- This year 32 percent of English learners scored at Early Advanced or Advanced compared to 30 percent on the Form E converted results.

- The percentage of students performing at the Early Intermediate and Intermediate levels was slightly lower in 2006-07 when compared to Form E converted results.

- The percentage of English learners scoring Intermediate was down by two percent from 41 percent on the Form E converted results to 39 percent on the Form F results.

Table 2 presents the percentage of students by grade span who met the CELDT criterion established by the SBE for possible reclassification in 2006-07 as compared to results for the Form E converted scores. The CELDT criterion for possible reclassification includes scoring Early Advanced or Advanced on Overall and scoring at least Intermediate in each of the skill areas. A student's score on the CELDT is only one of four criteria for the reclassification of English learners.

Table 2. Percentage of Students Who Met CELDT Criterion for Possible Reclassification by Grade Span

	Form F 2006-07
K-2	20.0%
3-5	27.3%
6-8	37.4%
9-12	34.3%
All Grades	29.1%

- The overall percentage of English learners who met the CELDT criterion for possible reclassification in 2006-07 is 29.1 percent.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs for the current CELDT administration are included in the current CELDT contract.

ATTACHMENT(S)

None.

ITEM #10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
U.S. Department of Education Peer Review of Standards and Assessment: Results of Second Peer Review	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In July 2006, CDE provided SBE with an update regarding peer review including California's approval pending status. The U.S. Department of Education (ED) identified outstanding concerns with the following:

- Performance level descriptors (PLDs) that differentiate among three levels of proficiency for mathematics, English-language arts, and science
- Official State Board of Education adoption of achievement standards for the California High School Exit Examination (CAHSEE)
- An external, impartial alignment study of the California Standards Tests (CSTs) and the California Alternate Performance Assessment (CAPA) to academic content and achievement standards
- A plan that addresses the gaps identified by the alignment study (including the External Evaluation of the CAHSEE)
- Procedure to review and maintain alignment of the assessment system

At the September 2006 SBE meeting, the CDE provided an update of the 2006 peer review process conducted by the ED. During the 2006 peer review process, the ED

SUMMARY OF PREVIOUS (Cont.)

noted that the SBE had not officially approved the achievement standards (i.e., cut scores) for the CAHSEE. To address this concern, the SBE officially adopted the achievement standards for the CAHSEE at the September 2006 SBE meeting.

In May 2007, CDE submitted a SBE item including the proposed PLDs produced by Human Resources Research Organization (HumRRO) as well as a sample communications document that incorporated the proposed PLDs with exemplars. The CDE recommended the approval of the proposed PLDs. SBE staff recommended the approval of an alternate set of PLDs and the SBE approved those PLDs. In May 2007, CDE also submitted a SBE item addendum containing the alignment study findings and CDE's plan for addressing the recommendations provided in the alignment report.

SUMMARY OF KEY ISSUES

The ED is using a peer review process to determine whether states have met No Child Left Behind (NCLB) standards and assessment requirements. According to the ED, additional evidence is necessary for California to meet statutory and regulatory requirements. The current status of the California Standards and Assessment System is "Approval Pending" – a) mandatory oversight status.

In May 2007, the CDE supplied evidence to the ED for a second peer review. As requested by SBE staff, they submitted the approved PLDs to the ED. An index of the peer review findings and evidence submitted to the ED is provided in Attachment 1. CDE anticipates the results of the second peer review by late June. CDE may provide additional information regarding peer review as an item addendum.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs associated with the alignment study and development of the PLDs are included in the contract the CDE awarded to HumRRO for the California Standards and Assessment System Independent Evaluation.

ATTACHMENT(S)

Attachment 1: California Peer Review Submission–Index Page (1 Page)

The results of the second peer review may be provided in an Item Addendum.

California Peer Review Submission
Index Page

Evidence Requirements for the California Assessment System (*U.S. Department of Education's June 2006 Letter*)		Evidence Documents	
2.0	***Academic Achievement Standards***		
2.1	Performance level descriptors that differentiate among three levels of proficiency for mathematics, English language arts, and science	2.1a	May 2007 SBE motion Per conversation with Roger Magyar, the board executive director, the board staff will be submitting additional evidence in response to this finding
2.2	Official State Board of Education adoption of achievement standards for the CAHSEE	2.2a 2.2b	September 2006 SBE item 9 September 2006 meeting minutes
5.0	***Alignment***		
5.1	An external, impartial alignment study of the CST and the CAPA to academic content and achievement standards	5.1a	*Independent Evaluation of the Alignment of the California Standards Tests (CSTs) and the California Alternate Performance Assessment*, May 2007
5.2	A plan that addresses the gaps identified by the alignment study (including the External Evaluation of the CAHSEE)	5.2a	May 2007 SBE item 9 addendum, attachment 3
5.3	Procedure to review and maintain alignment of the assessment system	5.3a	Plan to maintain alignment of assessment system

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 9, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William L. Padia, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 10

SUBJECT: U.S. Department of Education Peer Review of Standards and Assessment: Results of Second Peer Review

The California Department of Education (CDE) and the State Board of Education (SBE) received the results of its second peer review on July 3, 2007 (see Attachment 2). California did not receive an approved status and a condition was placed on its fiscal year 2007 Title I, Part A grant award. In order to obtain an approved status and avoid any potential financial penalties from the U.S. Department of Education (ED), a timeline must be submitted by July 13, 2007, that outlines how California will satisfy the issues identified by ED as outstanding. In addition, evidence must be submitted to ED for review as it becomes available.

The ED found outstanding issues in three general areas: academic achievement standards, full assessment system and alignment.

Academic Achievement Standards Findings:

1. Performance level descriptors (PLDs) that differentiate among three levels of proficiency for science in grades 5, 8, and 10.

2. Documentation of the involvement of diverse stakeholders in the development process for the PLDs in English/language arts, mathematics, and science.

3. PLDs in English/language arts, mathematics, and science that include a description of the competencies for grade-level academic achievement standards or grade-level expectations required at each grade or, in the case of science, each grade span.

California contracted with Human Resources Research Organization (HumRRO) to develop PLDs for the California Standards Tests (CSTs) and the California High School Exit Examination (CAHSEE). These PLDs were brought to the SBE in April and May of 2007. CDE believes they would satisfy all outstanding issues regarding academic achievement standards.

Full Assessment System Finding:

1. Clarification regarding the use of the "general mathematics test" at grade 8 in the State standards and assessment system, particularly regarding the technical quality of the test and its alignment to grade-level content and academic achievement standards.

The California content standards do not specify standards specific to grade 8 for mathematics but instead include content standards by specific mathematics discipline/course. In addition, California does not require that students in grade 8 take a specific mathematics course; instead, students are enrolled in a mathematics course based on their current level of achievement with the requirement that all students pass an Algebra course to obtain a high school diploma.

The only students who take the General Mathematics test are those that do not qualify for a mathematics end-of-course assessment in grade eight. These would be students who have not yet taken Algebra. The test blueprint for the General Mathematics test includes standards that most students would be taught in grade eight in preparation for future enrollment in an Algebra course. The General Mathematics test assesses grade six and seven content standards at a rigor associated with the knowledge that would be obtained through grade 8.

The PLDs developed by HumRRO for grade 8 were based on empirical data and represent what students who score at each of the proficiency levels typically can do. The PLDs describe skills that are representative of what students who are preparing to take Algebra in the future need to achieve (e.g., number sense, algebra and functions, measurement and geometry, and statistics, data analysis, and probability). Based on the PLDs, the threshold for achieving proficient on the General Mathematics test seems appropriate for this specific population of students.

In terms of the technical quality of the assessment, California provided the *STAR Technical Report, Spring 2004 Administration* as part of its original peer review submission. That technical report provides evidence of the technical soundness of the General Mathematics test, including strong reliability and acceptable levels of standard error. In addition, the General Mathematics test was evaluated by an independent evaluator for alignment using the Webb method and found to be strongly aligned to the California content standards. In the same alignment study, experts judged the items to be of high quality. These alignment results may be found in the report titled *Independent Evaluation of the Alignment of the California Standards Tests (CSTs) and the California Alternate Performance Assessment (CAPA)* that was previously submitted for peer review.

Alignment Finding:

1. A plan and a timeline to address the specific findings of the alignment studies for the California High School Exit Examination (CAHSEE), the California Standards Tests (CSTs), and the California Alternate Performance Assessment (CAPA).

Alignment Study Finding:
Review the cognitive requirements (depth-of-knowledge) of the CST assessment items and the content standards to establish greater consistency. This recommendation pertains to English-language arts (ELA) Grade 6 and 8; math Grades 2 and 7; the general math test; all three integrated math tests; and, all three history-social science tests.

> Corrective Action:
> Under the direction of the CDE, the test developer will transition from the use of various cognitive taxonomies to Webb's depth-of-knowledge (DOK) taxonomy. The test developer will integrate the DOK information gathered during item development and confirmed by content review panels in the item development and review process. The test developer will consider the availability of items by DOK and content strand when developing future item development plans to ensure sufficient coverage of higher-order items.

Alignment Study Finding:
Expand the content coverage on the CST assessments to match the breadth of the content expectations in California Content Standards. This recommendation pertains to the mathematics tests for Grades 2 through 5, the integrated math tests, and the history-social science tests.

> Corrective Action:
> CDE, in collaboration with SBE staff and the assessment review panels, will review the current test blueprints for all CSTs to determine if merging some reporting categories might better represent the breadth of the content expectations of California's content standards. A reorganization of test blueprints would require action by the SBE staff in November 2007.

Alignment Study Finding:
Review the appropriateness of the number of content objectives for the alternate standards.

> Corrective Action:
> CDE, in collaboration with SBE staff and the assessment review panels, will review the CAPA blueprints for ELA Levels I and II and Math Levels II and III to determine if the number of content standards on the blueprint is appropriate. In addition, it will be determined if the performance tasks would more appropriately address several content standards instead of a single standard. A redesign of the CAPA blueprints would require action by the SBE in November 2007.

Alignment Study Finding:
Review the cognitive requirements (depth-of-knowledge) of the performance tasks and the alternate standards to establish greater consistency. This recommendation applies specifically to ELA Level I (Reading and Listening/Speaking) and Math Level I (Statistics, Probability, and Data Analysis).

Corrective Action:
CDE, in collaboration with the assessment review panels, will review the CAPA performance tasks for cognitive complexity. Under CDE direction, the test developer will target item development to address any determined gaps in cognitive complexity.

Alignment Study Finding:
Review the assessments for Grade 8 science and Integrated Mathematics III for test accuracy due to larger standard errors of measurement.

Corrective Action:
In response to this finding and a small number of students that participate in the Integrated Math III assessment, CDE, with SBE approval, may determine that it would be appropriate to eliminate the assessment. An elimination of the assessment would require action by the SBE in January 2008.

The larger standard errors for the Grade 8 science CST seem directly related to the difficulty of the test items. This issue may be a function of the newness of the assessment and the relatively small number of items that were available from which to build an assessment. In the future, the test developer will target item development to ensure appropriate coverage of the range of performance the test is intended to measure.

Alignment Study Finding:
Review the number of items assigned to Far Below Basic and Below Basic to distinguish between these performance levels more clearly for each subject area.

Corrective Action:
Under the direction of the CDE, the test developer will review the test specifications to determine if the number of item targets by performance level need to be adjusted to more accurately represent the range of performance the test intends to measure.

Alignment Study Finding:
Examine the number of items assigned to the Advanced level for ELA, math, and science.

Corrective Action:
Under the direction of the CDE, the test developer will review the test specifications to determine if the number of item targets by performance level

need to be adjusted to more accurately represent the range of performance the test intends to measure.

Alignment Study Finding:
The CAHSEE English-language arts (ELA) items matched the depth of the content standards to a modest degree.

Corrective Action:
CDE and ETS have partially implemented a plan to address depth of knowledge gaps identified by the CAHSEE independent evaluator. In general, the plan involves transitioning from the use of Bloom's Taxonomy to the use of Webb's depth of knowledge rating and integrating that information into the item development and review process.

ATTACHMENT

Attachment 2: June 29, 2007, Letter from U.S. Department of Education (3 Pages)

ITEM #11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
School Accountability Report Card (SARC): Proposed Template and Data Definitions for the 2007-08 School Year	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the proposed School Accountability Report Card (SARC) template and data definitions for report cards to be published in the 2007-08 school year, and that the SBE direct CDE staff to make the documents available to local educational agencies (LEAs) on the CDE Web site.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE annually approves the SARC template and associated data definitions in accordance with the requirements of state and federal laws. In July 2006, the SBE approved a SARC template and data definitions that were used for SARCs published during the 2006-07 school year.

SUMMARY OF KEY ISSUES

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

The CDE makes the template available on the Internet in both a blank format (without data) and in a format that can be downloaded with data for those reporting elements for which the CDE has data available (such as standardized test results). Although some information for the report card must be gathered locally, the CDE provides a majority of the data needed.

The CDE is proposing only one minor change to the 2007-08 SARC template that is necessary because of a change in the rating scale on the school facility inspection evaluation instrument developed by the Office of Public School Construction (OPSC).

SUMMARY OF KEY ISSUES (Cont.)

Aside from this change and minor editing, the proposed template will not differ significantly from the current version in terms of organization, format and presentation of data, and narrative descriptions of data elements. The proposed template includes an executive summary comprised of about 20 elements designed to provide a quick snapshot of school accountability.

The proposed change to the 2007-08 SARC template concerns reporting on school facility conditions. Assembly Bill (AB) 607 (Goldberg, 2006) mandated that the OPSC develop and implement a school facility inspection and evaluation instrument (Interim Evaluation Instrument (IEI) [REV 01/07]) to determine the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair. The IEI assigned a “yes” or “no” value to component systems and school facilities to indicate whether a school facility was in good repair. Information from this instrument is used to satisfy an existing SARC requirement on a school facility’s condition. The OPSC developed IEI is being replaced by a Permanent Evaluation Instrument (PEI) this summer. The PEI will evaluate the same conditions as the IEI, but will do so with ratings of "good," "fair," or "poor." The PEI will also provide an overall summary of the conditions at each school on a scale of "exemplary," "good," "fair," or "poor." This new terminology will require that the table School Facility Good Repair Status, Section III, School Facilities, be updated in the SARC template for the 2006-07 school year.

Based on the minor change necessitated by the development of the PEI by the OPSC and minor editing changes in the template and data definitions, the following items are being presented to the SBE for approval:

1. An optional executive summary comprised of about 20 SARC reporting elements designed to provide parents and community members with a quick snapshot of school accountability. The executive summary will be provided to LEAs as part of a SARC template package.

2. A SARC template with one minor change (page 4 of 16) and minor edits.

3. A revised set of data definitions, with minor edits, to support the SARC template and provide technical guidance to LEAs and schools.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved by the SBE, the recommended action will result in ongoing costs for the CDE to prepare and publish a SARC template and data definitions for report cards published in the 2007-08 school year. These costs are funded in the CDE’s annual budget. LEAs and schools will also likely incur ongoing costs related to preparing and publishing the annual report cards as required by law, although no new or additional costs would be imposed on LEAs and schools.

ATTACHMENT(S)

Attachment 1: Executive Summary School Accountability Report Card, 2006-07 (2 Pages)

Attachment 2: School Accountability Report Card Reported for School Year 2006-07 Published During 2007-08 (16 Pages)

Attachment 3: School Accountability Report Card, Data Element Definitions and Sources 2006-07 (58 Pages)

Executive Summary School Accountability Report Card, 2006-07

For … School

Address: **Phone:**

Principal: **Grade Span:**

This executive summary of the School Accountability Report Card (SARC) is intended to provide parents and community members with a quick snapshot of school accountability. The data presented in this report are reported for the 2006-07 school year, except the School Finances and School Completion data that are reported for the 2005-06 school year. For additional information about the school, parents and community members should review the entire SARC or contact the school principal or the district office.

About This School

Narrative to be provided by LEA

Student Enrollment

Group	Enrollment
Number of students	#
African American	%
American Indian or Alaska Native	%
Asian	%
Filipino	%
Hispanic or Latino	%
Pacific Islander	%
White (not Hispanic)	%
Multiple or No Response	%
Socioeconomically Disadvantaged	%
English Learners	%
Students with Disabilities	%

Teachers

Indicator	Teachers
Teachers with full credential	#
Teachers without full credential	#
Teachers Teaching Outside Subject Area of Competence	#
Misassignments of Teachers of English Learners	#
Total Teacher Misassignments	#

School Facilities

Summary of Most Recent Site Inspection

Narrative to be provided by LEA

Repairs Needed

Narrative to be provided by LEA

Corrective Actions Taken or Planned

Narrative to be provided by LEA

Curriculum and Instructional Materials

Core Curriculum Areas	Pupils Who Lack Textbooks and Instructional Materials
Reading/Language Arts	%
Mathematics	%
Science	%
History-Social Science	%
Foreign Language	%
Health	%
Science Laboratory Equipment (grades 9-12)	%

School Finances

Level	Expenditures Per Pupil (Unrestricted Sources Only)
School Site	$
District	$
State	$

Student Performance

Subject	Students Proficient and Above on California Standards Tests
English-Language Arts	%
Mathematics	%
Science	%
History-Social Science	%

Academic Progress

Indicator	Result
2007 Growth API Score (from 2007 Growth API Report)	#
Statewide Rank (from 2007 Base API Report)	#
2007-08 Program Improvement Status	PI year

School Completion

Indicator	Result
Graduation Rate	%

Postsecondary Preparation

Measures	Percent of Graduates
Pupils Who Completed a Career Technical Education Program and Earned a High School Diploma	%
Graduates Who Completed All Courses Required for University of California or California State University Admission	%

School Accountability Report Card
Reported for School Year 2006-07
Published During 2007-08

The School Accountability Report Card (SARC), which is required by law to be published annually, contains information about the condition and performance of each California public school. More information about SARC requirements is available on the California Department of Education (CDE) Web site 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. *DataQuest*, an online data tool at http://dq.cde.ca.gov/dataquest/, contains additional information about this school and comparisons of the school to the district, the county, and the state.

I. About This School

Contact Information **Data Element Definitions and Sources**
This section provides the school's contact information.

School		District	
Name		**Name**	
Street	***To be provided by local educational agency (LEA)***	**Phone Number**	***To be provided by LEA***
City, State, Zip		**Web Site**	
Phone Number		**Superintendent**	
Principal		**E-mail Address**	
E-mail Address		**n/a**	n/a

School Description and Mission Statement
This section provides information about the school's goals and programs.

Narrative to be provided by LEA

Opportunities for Parental Involvement
This section provides information about opportunities for parents to become involved with school activities.

Narrative to be provided by LEA

Student Enrollment by Grade Level

This table displays the number of students enrolled in each grade level at the school.

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

Student Enrollment by Group

This table displays the percent of students enrolled at the school who are identified as being in a particular group.

Group	Percent of Total Enrollment	Group	Percent of Total Enrollment
African American		White (not Hispanic)	
American Indian or Alaska Native		Multiple or No Response	
Asian			
Filipino		Socioeconomically Disadvantaged	
Hispanic or Latino		English Learners	
Pacific Islander		Students with Disabilities	

Average Class Size and Class Size Distribution (Elementary)

This table displays by grade level the average class size and the number of classrooms that fall into each size category (a range of total students per classroom).

Grade Level	2004-05				2005-06				2006-07			
	Avg. Class Size	Number of Classrooms			Avg. Class Size	Number of Classrooms			Avg. Class Size	Number of Classrooms		
		1-20	21-32	33+		1-20	21-32	33+		1-20	21-32	33+
K												
1												
2												
3												
4												
5												
6												
K-3												
3-4												
4-8												
Other												

Average Class Size and Class Size Distribution (Secondary)

This table displays by subject area the average class size and the number of classrooms that fall into each size category (a range of total students per classroom).

Subject	2004-05				2005-06				2006-07			
	Avg. Class Size	Number of Classrooms			Avg. Class Size	Number of Classrooms			Avg. Class Size	Number of Classrooms		
		1-22	23-32	33+		1-22	23-32	33+		1-22	23-32	33+
English												
Mathematics												
Science												
Social Science												

Participation in the Class Size Reduction Program

This table displays the percent of students in kindergarten through grade 3 who were assigned to a classroom that participated in the Class Size Reduction Program.

Grade Level	Percent of Students Participating		
	2004-05	2005-06	2006-07
K	*To be provided by LEA*		
1			
2			
3			

II. School Climate

School Safety Plan

This section provides information about the school's comprehensive safety plan.

Narrative to be provided by LEA

School Discipline Practices

This section provides information about the school's efforts to create and maintain a positive learning environment, including the school's use of disciplinary strategies.

Narrative to be provided by LEA

Suspensions and Expulsions

This table displays the rate of suspensions and expulsions (the total number of incidents divided by the total enrollment) at the school and district levels for the most recent three-year period.

	School			District		
	2004-05	2005-06	2006-07	2004-05	2005-06	2006-07
Rate of Suspensions	*To be provided by LEA*			*To be provided by LEA*		
Rate of Expulsions						

III. School Facilities

School Facility Conditions and Improvements
This section includes information about the condition of the school's grounds, buildings, and restrooms; a description of any planned facility improvements; and the results of the most recently completed school site inspection to determine the school facility's good repair status.

Facility Conditions and Planned Improvements

Narrative to be provided by LEA

School Facility Good Repair Status
This table displays the results of the most recently completed school site inspection to determine the school facility's good repair status.

Item Inspected	Facility Component System Status			Repair Needed and Action Taken or Planned
	Good	Fair	Poor	
Gas Leaks	☐	☐	☐	
Mechanical Systems	☐	☐	☐	
Windows/Doors/Gates (interior and exterior)	☐	☐	☐	
Interior Surfaces (walls, floors, and ceilings)	☐			
Hazardous Materials (interior and exterior)	☐			
Structural Damage	☐			
Fire Safety	☐			
Electrical (interior and exterior)	☐			
Pest/Vermin Infestation	☐			
Drinking Fountains (inside and outside)	☐			
Restrooms	☐	☐	☐	
Sewer	☐	☐	☐	
Playground/School Grounds	☐	☐	☐	
Roofs	☐	☐	☐	
Overall Cleanliness	☐	☐	☐	

All Information to be provided by LEA

Overall Summary of School Facility Conditions			
Exemplary	Good	Fair	Poor
☐	☐	☐	☐

IV. Teachers

Teacher Credentials

This table displays the number of teachers assigned to the school with a full credential, without a full credential, and those teaching outside of their subject area of competence. Detailed information about teacher qualifications can be found on the CDE Web site at http://dq.cde.ca.gov/dataquest/.

Teachers	School			District
	2004-05	2005-06	2006-07	2006-07
With Full Credential				
Without Full Credential				
Teaching Outside Subject Area of Competence	*To be provided by LEA*			n/a

Teacher Misassignments and Vacant Teacher Positions

This table displays the number of teacher misassignments (teachers assigned without proper legal authorization) and the number of vacant teacher positions (not filled by a single designated teacher assigned to teach the entire course at the beginning of the school year or semester). *Note: Total Teacher Misassignments includes the number of Misassignments of Teachers of English Learners*.

Indicator	2005-06	2006-07	2007-08
Misassignments of Teachers of English Learners	*To be provided by LEA*		
Total Teacher Misassignments			
Vacant Teacher Positions			

Core Academic Classes Taught by No Child Left Behind Compliant Teachers

This table displays the percent of classes in core academic subjects taught by No Child Left Behind (NCLB) compliant and non-NCLB compliant teachers in the school, in all schools in the district, in high-poverty schools in the district, and in low-poverty schools in the district. More information on teacher qualifications required under NCLB can be found on the CDE Web site at http://www.cde.ca.gov/nclb/sr/tq/.

	Percent of Classes In Core Academic Subjects	
	Taught by NCLB Compliant Teachers	Taught by Non-NCLB Compliant Teachers
This School		
All Schools in District		
High-Poverty Schools in District		
Low-Poverty Schools in District		

Substitute Teacher Availability

This section provides information about the availability of qualified substitute teachers and the impact of any difficulties in this area on the instructional program at the school.

Narrative to be provided by LEA

Teacher Evaluation Process

This section provides information about the procedures and the criteria used for teacher evaluations.

Narrative to be provided by LEA

V. Support Staff

Academic Counselors and Other Support Staff

This table displays, in units of full-time equivalents (FTE), the number of academic counselors and other support staff who are assigned to the school and the average number of students per academic counselor. One FTE equals one staff member working full time; one FTE could also represent two staff members who each work 50 percent of full time.

Title	Number of FTE Assigned to School	Average Number of Students per Academic Counselor
Academic Counselor		
Library Media Teacher (Librarian)		**n/a**
Library Media Services Staff (paraprofessional)		**n/a**
Psychologist		**n/a**
Social Worker		**n/a**
Nurse		**n/a**
Speech/Language/Hearing Specialist		**n/a**
Resource Specialist (non-teaching)		**n/a**
Other		**n/a**

VI. Curriculum and Instructional Materials

Quality, Currency, Availability of Textbooks and Instructional Materials

This table displays information about the quality, currency, and availability of the standards-aligned textbooks and other instructional materials used at the school, and information about the school's use of any supplemental curriculum or non-adopted textbooks or instructional materials.

Core Curriculum Areas	Quality, Currency, and Availability of Textbooks and Instructional Materials	Percent of Pupils Who Lack Their Own Assigned Textbooks and Instructional Materials
Reading/Language Arts		
Mathematics		
Science		
History-Social Science	***To be provided by LEA***	
Foreign Language		
Health		
Science Laboratory Equipment (grades 9-12)		

VII. School Finances

Expenditures Per Pupil and School Site Teacher Salaries (Fiscal Year 2005-06)

This table displays a comparison of the school's per pupil expenditures from unrestricted (basic) sources with other schools in the district and throughout the state, and a comparison of the average teacher salary at the school site with average teacher salaries at the district and state levels. Detailed information regarding school expenditures and teacher salaries can be found on the CDE Web site at http://www.cde.ca.gov/ds/fd/ec/ and http://www.cde.ca.gov/ds/fd/cs/.

Level	Total Expenditures Per Pupil	Expenditures Per Pupil (Supplemental)	Expenditures Per Pupil (Basic)	Average Teacher Salary
School Site	***To be provided by LEA***			
District	**n/a**	**n/a**		
Percent Difference – School Site and District	**n/a**	**n/a**	***To be provided by LEA***	
State	**n/a**	**n/a**		
Percent Difference – School Site and State	**n/a**	**n/a**	***To be provided by LEA***	

Types of Services Funded

This section provides information about the programs and supplemental services that are provided at the school through either categorical funds or other sources.

Narrative to be provided by LEA

Teacher and Administrative Salaries (Fiscal Year 2005-06)

This table displays district salaries for teachers, principals, and superintendents, and compares these figures to the state averages for districts of the same type and size. The table also displays teacher and administrative salaries as a percent of a district's budget, and compares these figures to the state averages for districts of the same type and size. Detailed information regarding salaries may be found on the CDE Web site at http://www.cde.ca.gov/ds/fd/cs/.

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

VIII. Student Performance

California Standards Tests
The California Standards Tests (CSTs) show how well students are doing in relation to the state content standards. The CSTs include English-language arts and mathematics in grades 2 through 11; science in grades 5, 8, 9, 10, and 11; and history-social science in grades 8, 9, 10, and 11. Student scores are reported as performance levels. Detailed information regarding CST results for each grade and performance level, including the percent of students not tested, can be found on the CDE Web site at http://star.cde.ca.gov. *Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.*

CST Results for All Students - Three-Year Comparison
This table displays the percent of students achieving at the Proficient or Advanced level (meeting or exceeding the state standards).

Subject	School			District			State		
	2005	2006	2007	2005	2006	2007	2005	2006	2007
English-Language Arts									
Mathematics									
Science									
History-Social Science									

CST Results by Student Group - Most Recent Year
This table displays the percent of students, by group, achieving at the Proficient or Advanced level (meeting or exceeding the state standards) for the most recent testing period.

Group	Percent of Students Scoring at Proficient or Advanced			
	English-Language Arts	Mathematics	Science	History-Social Science
African American				
American Indian or Alaska Native				
Asian				
Filipino				
Hispanic or Latino				
Pacific Islander				
White (not Hispanic)				
Male				
Female				
Economically Disadvantaged				
English Learners				
Students with Disabilities				
Students Receiving Migrant Education Services				

Norm-Referenced Test

The norm-referenced test (NRT), currently the California Achievement Test, Sixth Edition (CAT/6), shows how well students are doing compared to students nationally in reading, language, spelling, and mathematics in grades 3 and 7 only. The results required by the SARC for reading and mathematics are reported as the percent of tested students scoring at or above the national average (the 50th percentile). Detailed information regarding NRT results for each grade level can be found on the CDE Web site at http://star.cde.ca.gov/. *Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.*

NRT Results for All Students - ThreeYear Comparison

This table displays the percent of students scoring at or above the national average (the 50th percentile) in reading and mathematics.

Subject	School			District			State		
	2005	2006	2007	2005	2006	2007	2005	2006	2007
Reading									
Mathematics									

NRT Results by Student Group - Most Recent Year

This table displays the percent of students, by student group, scoring at or above the national average (the 50th percentile) in reading and mathematics for the most recent testing period.

Group	Percent of Students Scoring at or Above the National Average	
	Reading	Mathematics
African American		
American Indian or Alaska Native		
Asian		
Filipino		
Hispanic or Latino		
Pacific Islander		
White (not Hispanic)		
Male		
Female		
Economically Disadvantaged		
English Learners		
Students with Disabilities		
Students Receiving Migrant Education Services		

Local Assessment Results

Districts may choose to administer their own academic assessments in reading, writing, and mathematics. In such cases, this table displays the percent of students, by grade and subject area, meeting or exceeding the district standard.

Grade Level	Reading			Writing			Mathematics		
	2005	2006	2007	2005	2006	2007	2005	2006	2007
K									
1									
2									
3									
4									
5									
6	*To be provided by LEA*			*To be provided by LEA*			*To be provided by LEA*		
7									
8									
9									
10									
11									
12									

California Physical Fitness Test Results

The California Physical Fitness Test is administered to students in grades 5, 7, and 9 only. This table displays by grade level the percent of students meeting fitness standards (scoring in the healthy fitness zone on all six fitness standards) for the most recent testing period. Detailed information regarding this test, and comparisons of a school's test results to the district and state levels, may be found on the CDE Web site at http://www.cde.ca.gov/ta/tg/pf/. *Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.*

Grade Level	Percent of Students Meeting Fitness Standards
5	
7	
9	

IX. Accountability

Academic Performance Index

The Academic Performance Index (API) is an annual measure of the academic performance and progress of schools in California. API scores range from 200 to 1,000, with a statewide target of 800. Detailed information about the API can be found on the CDE Web site at http://www.cde.ca.gov/ta/ac/ap/.

API 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 10 percent of all schools in the state, while a statewide rank of 10 means that the school has an API score in the highest 10 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 10 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.

	2005	2006	2007
Statewide API Rank			
Similar Schools API Rank			

API Changes by Student Group - Three-Year Comparison

This table displays by student group the actual API changes in points added or lost for the past three years, and the most recent API score. *Note: "N/A" means that the student group is not numerically significant*.

Group	Actual API Change			2007 API Score
	2004-05	2005-06	2006-07	
All Students at the School				
African American				
American Indian or Alaska Native				
Asian				
Filipino				
Hispanic or Latino				
Pacific Islander				
White (not Hispanic)				
Socioeconomically Disadvantaged				
English Learners	**n/a**			
Students with Disabilities	**n/a**			

State Awards and Intervention Programs

This section will contain information about the school's participation in various state intervention and award programs only to the extent these programs were funded for the period addressed by this report.

Narrative to be provided By LEA

Adequate Yearly Progress

The federal NCLB Act requires that all schools and districts meet the following Adequate Yearly Progress (AYP) criteria:

- Participation rate on the state's standards-based assessments in English-language arts (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)

Detailed information about AYP, including participation rates and percent proficient results by student group, can be found on the CDE Web site at http://www.cde.ca.gov/ta/ac/ay/.

AYP Overall and by Criteria

This table displays an indication of whether the school and the district made AYP overall and whether the school and the district met each of the AYP criteria.

AYP Criteria	School	District
Overall		
Participation Rate - English-Language Arts		
Participation Rate - Mathematics		
Percent Proficient - English-Language Arts		
Percent Proficient - Mathematics		
API		
Graduation Rate		

Federal Intervention Program

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 (English-language arts 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. Detailed information about PI identification can be found on the CDE Web site at http://www.cde.ca.gov/ta/ac/ay/.

	School	District
Program Improvement Status		
First Year of Program Improvement		
Year in Program Improvement		
Number of Schools Currently in Program Improvement	**n/a**	
Percent of Schools Currently in Program Improvement	**n/a**	

X. School Completion and Postsecondary Preparation

Dropout Rate and Graduation Rate

This table displays the school's one-year dropout and graduation rates for the most recent three-year period for which data is available. For comparison purposes, data are also provided at the district and state levels. Detailed information about dropout rates and graduation rates can be found on the CDE Web site at http://dq.cde.ca.gov/dataquest/.

	School			District			State		
	2003-04	2004-05	2005-06	2003-04	2004-05	2005-06	2003-04	2004-05	2005-06
Dropout Rate (1-year)									
Graduation Rate									

Completion of High School Graduation Requirements

Students in California public schools must pass both the English-language arts and mathematics portions of the California High School Exit Examination (CAHSEE) to receive a high school diploma. For students who began the 2006-07 school year in the 12th grade as evidenced by that school year's October CBEDS enrollment, this table displays by student group the percent who met all state and local graduation requirements for grade 12 completion, including having passed both portions of the CAHSEE or received a local waiver or state exemption. Detailed information about the CAHSEE can be found on the CDE Web site at http://www.cde.ca.gov/ta/tg/hs/. *Note: "N/A" means that the student group is not numerically significant*.

Group	Graduating Class of 2007		
	School	District	State
All Students			
African American			
American Indian or Alaska Native			
Asian			
Filipino	***To be provided by LEA***		
Hispanic or Latino			
Pacific Islander			
White (not Hispanic)			
Socioeconomically Disadvantaged			
English Learners			
Students with Disabilities			

Career Technical Education Programs

This section provides information about the degree to which pupils are prepared to enter the workforce, including a list of career technical education (CTE) programs offered at the school.

Narrative to be provided by LEA

Career Technical Education Participation

This table displays questions and answers about participation in the school's CTE programs.

Question	Answer
How many of the school's pupils participate in CTE?	
What percent of the school's pupils complete a CTE program and earn a high school diploma?	
What percent of the school's CTE courses are sequenced or articulated between the school and institutions of postsecondary education?	***To be provided by LEA***

Courses for University of California and/or California State University Admission

This table displays for the most recent year two measures related to the school's courses that are required for University of California (UC) and/or California State University (CSU) admission. Detailed information about student enrollment in and completion of courses required for UC/CSU admission can be found on the CDE Web site at http://dq.cde.ca.gov/dataquest/.

UC/CSU Course Measure	Percent
Student Enrollment in Courses Required for UC/CSU Admission	
Graduates Who Completed All Courses Required for UC/CSU Admission	

Advanced Placement Courses

This table displays for the most recent year the number of Advanced Placement (AP) courses that the school offered by subject and the percent of the school's students enrolled in all AP courses. Detailed information about student enrollment in AP courses can be found on the CDE Web site at http://dq.cde.ca.gov/dataquest/.

Subject	Number of AP Courses Offered	Percent of Students In AP Courses
Computer Science		**n/a**
English		**n/a**
Fine and Performing Arts		**n/a**
Foreign Language		**n/a**
Mathematics		**n/a**
Science		**n/a**
Social Science		**n/a**
All courses		

College Admission Test Preparation Course Program

This section provides information about the school's college admission test preparation course program.

Narrative to be provided by LEA

SAT Reasoning Test

This table displays the percent of the school's 12th grade students who voluntarily take the SAT Reasoning Test for college entrance, and the average verbal, math, and writing scores of those students. Detailed information regarding SAT results, and comparisons of these average scores to the district and state levels, can be found on the CDE Web site at http://www.cde.ca.gov/ds/sp/ai/. *Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.*

	2005	2006	2007
Percent of Grade 12 Students Taking the Test			
Average Verbal Score			
Average Math Score			
Average Writing Score	**n/a**	**n/a**	

XI. Instructional Planning and Scheduling

School Instruction and Leadership

This section provides information about the structure of the school's instructional program and the experience of the school's leadership team.

Narrative to be provided by LEA

Professional Development

This section provides information about the program for training the school's teachers and other professional staff.

Narrative to be provided by LEA

Instructional Minutes

This table displays a comparison of the number of instructional minutes offered at the school to the state requirement for each grade level.

Grade Level	Instructional Minutes	
	Offered	State Requirement
K	*To be provided by LEA*	36,000
1		50,400
2		50,400
3		50,400
4		54,000
5		54,000
6		54,000
7		54,000
8		54,000
9		64,800
10		64,800
11		64,800
12		64,800

Continuation School Instructional Days

This table displays a comparison of the number of instructional days offered at the continuation school to the state requirement for each grade level.

Grade Level	Instructional Days With At Least 180 Instructional Minutes	
	Offered	State Requirement
9	*To be provided by LEA*	180 days
10		180 days
11		180 days
12		180 days

Minimum Days in School Year

The section provides information about the total number of days in the most recent school year that students attended school on a shortened day schedule and the reasons for the shortened day schedule.

Narrative to be provided by LEA

School Accountability Report Card

Data Element Definitions and Sources 2006-07

California Department of Education
Policy and Evaluation Division
Approved **Insert Date**

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Contact Information

Specific Requirements

There is no legal requirement for this section; it is provided in the template as a courtesy.

Definitions

School name, address, phone number, principal, and e-mail address.

District name, phone number, Web site, superintendent, and e-mail address.

Guidelines and Data Sources

School, district, principal, and superintendent names and addresses are provided by the California Department of Education (CDE) from the Public School Directory database, which is available at http://www.cde.ca.gov/re/sd/. The remaining contact information is to be provided by the local educational agency (LEA)/school.

LEAs should review the contact information provided by the CDE to verify that it is current for this school year. Any necessary revisions should be reported to the CDE using the update form found at http://www.cde.ca.gov/re/sd/.

Data provided by the LEA and the CDE

School Description and Mission Statement

Specific Requirements

There is no legal requirement for this section; it is provided in the template as a courtesy.

Definitions

Background information about the school, its programs, and its goals.

Guidelines and Data Sources

Narrative is developed by the LEA/school. Questions that may be answered include:

- What makes the school unique?
- What are the school's goals as expressed in the single school plan?
- What are the school's progress indicators?
- How often are the progress indicators monitored?
- What school wide programs exist at the school?

Data provided by the LEA

Opportunities for Parental Involvement

Specific Requirements

Contact information pertaining to any organized opportunities for parental involvement.

Education Code Section 33126 (b)(22)

Definitions

Description of organized opportunities for parental involvement.

Contact person name.

Contact person phone number.

Guidelines and Data Sources

Information and narrative are developed by the LEA/school.

Data provided by the LEA

Student Enrollment by Grade Level

Specific Requirements

There is no legal requirement for this section; it is provided in the template as a courtesy.

Definitions

The number of students at the school in each grade level.

Guidelines and Data Sources

Data are derived from the California Basic Educational Data System (CBEDS).

A report can be generated at http://dq.cde.ca.gov/dataquest/.

Data provided by the CDE

Student Enrollment by Group

Specific Requirements

There is no legal requirement for this section; it is provided in the template as a courtesy.

Definitions

The percent of students at the school by racial/ethnic subgroup, and the percent of students at the school who are identified as socioeconomically disadvantaged, English learners, and disabled.

Guidelines and Data Sources

Data are derived from CBEDS.

A report can be generated at http://dq.cde.ca.gov/dataquest/.

Data provided by the CDE

Average Class Size and Class Size Distribution (Elementary)

Specific Requirements

Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the school site by grade level and the average class size by grade level.

Education Code Section 33126 (b)(4)

Definitions

For the most recent three-year period, as defined by CBEDS:

- Distribution of class sizes at the school site by grade level
- Average class size by grade level

Guidelines and Data Sources

For schools/grades organized into self-contained classrooms (e.g., kindergarten and grades one through six in elementary schools), data are reported as the average class size and the number of classrooms within each of the following class sizes: 1-20, 21-32, and 33 or more.

The CBEDS calculations of the average class size by grade level and the class size distribution by grade level exclude classrooms of 50 or more students.

Data provided by the CDE

Average Class Size and Class Size Distribution (Secondary)

Specific Requirements

Progress toward reducing teaching loads, including the distribution of class sizes at the school site and the average class size.

Education Code Section 33126 (b)(4)

Definitions

For the most recent three-year period, as defined by CBEDS:

- Distribution of class sizes at the school site by subject taught
- Average class size by subject taught

Guidelines and Data Sources

For secondary schools with departmentalized programs, data are reported by subject area (English, mathematics, science, and social science) as the average class size and the number of classrooms within each of the following class sizes: 1-22, 23-32, and 33 or more.

The CBEDS calculations of the average class size by subject taught and the class size distribution by subject taught exclude classrooms of 50 or more students.

Data provided by the CDE

Participation in the Class Size Reduction Program

Specific Requirements

The percentage of pupils in kindergarten and grades one through three, inclusive, participating in the Class Size Reduction Program for the most recent three-year period.

Education Code Section 33126 (b)(4)

Definitions

For the most recent three-year period, the percent of students in kindergarten and grades one through three participating in the Class Size Reduction Program.

Guidelines and Data Sources

Data provided by the LEA

School Safety Plan

Specific Requirements

Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter. Commencing in July 2000, and every July thereafter, each school shall report on the status of its school safety plan, including a description of its key elements, in the annual school accountability report card prepared pursuant to Sections 33126 and 35256.

Education Code Section 32286

Definitions

The dates on which the school safety plan was last reviewed, updated, and discussed with school faculty, as well as a brief description of the key elements included in the plan.

Guidelines and Data Sources

Safe Schools: A Planning Guide for Action, 2002 Edition provides a two-component model and step-by-step guidance for schools to develop a comprehensive safe school plan. It also reviews the legal requirements and the benefits of safety planning to help schools annually revise and amend their safe school plan. This document is available for ordering from CDE Press at http://www.cde.ca.gov/re/pn/rc/. Other resources related to school safety planning are available at http://www.cde.ca.gov/ls/ss/vp/.

Data provided by the LEA

School Discipline Practices

Specific Requirements

Classroom discipline and climate for learning.

Education Code Section 33126 (b)(11)

Definitions

List of school programs and practices that promote a positive learning environment.

Guidelines and Data Sources

Narrative is developed by the LEA/school. School programs and practices that promote a positive learning environment may include:

- School discipline policy
- Peer counseling
- School/home communication
- Tutoring availability and after-school activities

Data provided by the LEA

Suspensions and Expulsions

Specific Requirements

Suspension and expulsion rates for the most recent three-year period.

Education Code Section 33126 (b)(11)

Definitions

For the most recent three-year period:

The rate of suspensions and of expulsions (by comparison against enrollment) reported per 100 students. Data are to be reported at both the school and district levels.

Guidelines and Data Sources

The rate of suspensions and expulsions is the total number of incidents divided by the school's CBEDS total enrollment for the given year.

If possible, LEAs may compare the school-level data with the district average for the same type of school (elementary, middle, high).

Data provided by the LEA

School Facility Conditions and Improvements

Specific Requirements

Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair.

Education Code Section 33126 (b)(9)
Education Code sections 17002 (d), 17014, 17032.5, 17070.75 (a), 17089 (b)

Definitions

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 as specified in statute. "Good repair" means the facility is maintained in a manner that assures that it is clean, safe, and functional as determined pursuant to an Interim Evaluation Instrument (IEI) or a Permanent Evaluation Instrument (PEI) once it is developed and approved by the State of California Office of Public School Construction (OPSC). The IEI assigns a “yes” or “no” value to component systems and school facilities to indicate whether a school facility is in good repair. The PEI will evaluate the same conditions as the IEI, but will do so with ratings of "good," "fair," or "poor." The PEI will also provide an overall summary of the conditions at each school on a scale of "exemplary," "good," "fair," or "poor." The instrument shall not require capital enhancements beyond the standards to which the facility was designed and constructed.

Note: The LEA/School may use a locally developed school facility inspection and evaluation instrument so long it meets the same criteria as the instrument developed by the OPSC.

Descriptions should use the most recent available data collected by the district. The year and month in which the data were collected should also be identified.

Guidelines and Data Sources

Narrative is developed by the LEA/school. Questions that may be answered include:

- Are students safe on school grounds before, during, and after school?
- Does the school facility have sufficient classroom, playground, and staff spaces to support teaching and learning?
- What is the general condition of the school and is it cleaned on a regular basis?

Examples of unacceptable summary statements on the condition of school facilities are as follows:

The district has ensured that this school has facilities that are safe, clean, and adequate, and that any needed maintenance to ensure good repair has been or will soon be completed.

For more information about the condition of this school's facilities, contact the school principal.

Examples of acceptable summary statements on the condition of school facilities are as follows:

General
The district takes great efforts to ensure that all schools are clean, safe, and functional. To assist in this effort, the district uses a facility survey instrument developed by the State of California Office of Public School Construction. The results of this survey are available at the school office, at the district office, or on the Internet at [Web site address].

Below is more specific information on the condition of the school and the efforts made to ensure that students are provided with a clean, safe, and functional learning environment.

Age of School Buildings
This school has 20 classrooms, a multipurpose room, a library, and an administration building. The main campus was built in 1965. Additions were constructed in 1968 and 1972. Two portable classrooms were constructed in 1997 for class size reduction.

The school opened in 1990 with all portable buildings. In 1995, permanent classrooms were built. The multipurpose room was built in 1997.

Maintenance and Repair
District maintenance staff ensures that the repairs necessary to keep the school in good repair and working order are completed in a timely manner. A work order process is used to ensure efficient service and that emergency repairs are given the highest priority.

Cleaning Process and Schedule
The district governing board has adopted cleaning standards for all schools in the district. A summary of these standards is available at the school office, at the district office, or on the Internet at [Web site address]. The principal works daily with the custodial staff to develop cleaning schedules to ensure a clean and safe school.

Deferred Maintenance Budget
The district participates in the State School Deferred Maintenance Program, which provides state matching funds on a dollar-for-dollar basis, to assist school districts with expenditures for major repair or replacement of existing school building components. Typically, this includes roofing, plumbing, heating, air conditioning, electrical systems, interior or exterior painting, and floor systems. For the 2004-05 school year, the district has budgeted $[ ] for the deferred maintenance program. This represents [ ] percent of the district's general fund budget.

Deferred Maintenance Projects (if applicable)
For the [ ] school year, the district's governing board has approved deferred maintenance projects for this school that will result in the replacement of the roof on the multipurpose room and the installation of a new fire alarm system for all classrooms. The district's complete deferred maintenance plan is available at the district office or on the Internet at [Web site address].

Modernization Projects (if applicable)
During the [ ] school year, local bond funds [Measure ___], and state matching funds will be used to install new air conditioning in all classrooms, provide wiring for technology, and provide for an upgraded electrical service. The work on this project is scheduled to begin in [ ] and be completed prior to the start of the [ ] school year.

New School Construction Projects (if applicable)
Architectural planning for replacing five portable classrooms with permanent classrooms will begin during the [ ] school year. State and local bond funds will be used. The new classrooms are scheduled to be occupied by students in the [ ] school year.

Data provided by the LEA

School Facility Good Repair Status

Specific Requirements

Safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair.

Education Code Section 33126 (b)(9)
Education Code sections 17002 (d), 17014, 17032.5, 17070.75 (a), 17089 (b)

Definitions

Description of any needed maintenance to ensure good repair as specified in statute. "Good repair" means the facility is maintained in a manner that assures that it is clean, safe, and functional as determined pursuant to an Interim Evaluation Instrument (IEI) or a Permanent Evaluation Instrument (PEI) once it is developed and approved by the State of California Office of Public School Construction (OPSC). The IEI assigns a “yes” or “no” value to component systems and school facilities to indicate whether a school facility is in good repair. The PEI will evaluate the same conditions as the IEI, but will do so with ratings of "good," "fair," or "poor." The PEI will also provide an overall summary of the conditions at each school on a scale of "exemplary," "good," "fair," or "poor." The instrument shall not require capital enhancements beyond the standards to which the facility was designed and constructed.

Note: The LEA/School may use a locally developed school facility inspection and evaluation instrument so long it meets the same criteria as the instrument developed by the OPSC.

Descriptions should use the most recent available data collected by the district. The year and month in which the data were collected should also be identified.

Guidelines and Data Sources

For reporting the results of the most recent site inspection, provide information about the determination of good repair as documented in a completed Interim Evaluation Instrument or its equivalent. For any item inspected and found not to be in good repair, describe the deficiency and the remedial action already taken or planned. Note the school site inspection date, the completion date of the Interim Evaluation Instrument or its equivalent, and the date of any remedial action taken or planned.

Data provided by the LEA

Teacher Credentials

Specific Requirements

The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence, for the most recent three-year period.

The professional qualifications of teachers in the local educational agency and the school and the percentage of such teachers teaching with emergency or provisional 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)

Definitions

For the most recent three-year period at the school level, the number of teachers:

- With full credential
- Without full credential (includes district and university internships, pre-internships, emergency or other permits, and waivers)
- Teaching outside subject area of competence (with full credential)

For the most recent year at the district level, the number of teachers:

- With full credential
- Without full credential (includes district and university internships, pre-internships, emergency or other permits, and waivers)

Guidelines and Data Sources

All data except that regarding the assignment of teachers outside their subject areas of competence are derived from the CBEDS Professional Assignment Information Form. Teacher counts include both full-time and part-time teachers. A report can be generated at http://dq.cde.ca.gov/dataquest/.

Teaching outside subject area data should be available in the LEA's personnel office.
In most instances, teaching outside subject area is a subset of total teacher misassignments (see data definition for Teacher Misassignments).

Note: For questions concerning the assignment of teachers outside their subject area of competence or the credential status of teachers please contact the California Commission on Teacher Credentialing at http://www.ctc.ca.gov/email/default.html.

Teaching outside subject area data provided by the LEA

All other data provided by the CDE

Teacher Misassignments and Vacant Teacher Positions

Specific Requirements

The total number of teacher misassignments, including misassignments of teachers of English learners, and the total number of the vacant teacher positions, for the most recent three-year period.

Education Code Section 33126 (b)(5)

Definitions

For the two most recent years and for the current school year, if available, the total number of the school's teacher misassignments, including misassignments of teachers of English learners (the number of placements of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold). The number of misassignments of teachers of English learners is to be reported as both a subtotal and as part of total teacher misassignments.

In addition to misassignments of teachers of English learners, total misassignments to be reported include the assignment of employees to services positions for which the employee does not hold the required certificate, credential, or other statutory authorization. These services areas, for which the California Commission on Teacher Credentialing issues credentials, include Administrative Services, Pupil Personnel Services, Clinical/Rehabilitative Services, Library Media Services, and School Nurse or Other Health Services.

For the two most recent years and for the current school year, if available, the total number of the school's vacant teacher positions (the number of positions to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester).

Beginning of the year or semester means the first day classes necessary to serve all the students enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day students attend classes for that semester.

Guidelines and Data Sources

Misassignment and vacant teacher position data should be available in the LEA's personnel office.

Note: For questions concerning the misassignment of teachers please contact the California Commission on Teacher Credentialing at http://www.ctc.ca.gov/email/default.html.

Data provided by the LEA

Core Academic Classes Taught by No Child Left Behind Compliant Teachers

Specific Requirements

The percentage of classes in the state not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools (schools in the top and bottom quartiles of poverty in the state).

Public Law 107-110 Section 1111 (h)(1)(C)(viii)
Public Law 107-110 Section 1111 (h)(2)(B)

Definitions

For the school and the LEA, the percent of classes in core academic subjects taught by No Child Left Behind (NCLB) compliant teachers and by non-NCLB compliant teachers. For the LEA, the percent of classes in core academic subject areas (as defined by NCLB) taught by NCLB compliant teachers and by non-NCLB compliant teachers, disaggregated by high-poverty schools compared to low-poverty schools. High poverty schools are defined as those schools with student participation in the highest quartile as defined by the free and reduced price meals program. Low poverty schools are those in the lowest quartile of program participation.

NCLB defines core academic subject areas as English, reading/language arts, mathematics, science, foreign languages, civics/government, economics, arts, history, and geography. Elementary school teachers must demonstrate competence in reading, writing, mathematics, and other core academic subject areas of the elementary school curriculum.

Guidelines and Data Sources

NCLB requires that all teachers teaching in core academic subjects be "highly qualified" not later than the end of the 2005-06 school year. In general, NCLB requires that to be designated as highly qualified; a teacher must meet the following three criteria:

- Possession of a bachelor's degree
- Possession of an appropriate California teaching credential
- Demonstrated core academic subject area competence by means of exam, coursework, advanced certification, or completion of the California High Objective Uniform State Standard of Evaluation (HOUSSE) in the subject area being taught

Additional information about NCLB teacher requirements is available at http://www.cde.ca.gov/nclb/sr/tq/.

Data are reported on the Consolidated Application at http://www.cde.ca.gov/fg/aa/co/.

Data provided by the CDE

Substitute Teacher Availability

Specific Requirements

Availability of qualified substitute teachers.

Education Code Section 33126 (b)(8)

Definitions

Statement regarding whether the school has had any difficulties in securing qualified substitute teachers and if so, a statement regarding whether the lack of available qualified substitute teachers has had an impact on the instructional program.

Guidelines and Data Sources

Narrative is developed by the LEA/school.

Data provided by the LEA

Teacher Evaluation Process

Specific Requirements

Adequacy of teacher evaluations.

Education Code Section 33126 (b)(10)

Definitions

Description of the procedures and criteria for teacher evaluations.

Guidelines and Data Sources

Through what process are teacher evaluation procedures and criteria defined?

What are the evaluation criteria? Are there differences in evaluation criteria between among tenured, probationary, and emergency-permit teachers?

How often are teachers evaluated? Are there differences in evaluation scheduling between tenured, probationary, and emergency-permit teachers?

Who gets the results of teacher evaluations? How are the results communicated in terms of ratings? Are the results confidential?

Data provided by the LEA

Academic Counselors and Other Support Staff

Specific Requirements

The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

Education Code Section 33126 (b)(7)

Definitions

The number of full-time equivalent (FTE) academic counselors and other support personnel who are assigned to the school, and the average number of students per academic counselor.

Guidelines and Data Sources

Data are derived from the CBEDS Professional Assignment Information Form.

A report can be generated at http://dq.cde.ca.gov/dataquest/.

Data provided by the CDE

Quality, Currency, and Availability of Textbooks and Instructional Materials

Specific Requirements

Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and are adopted by the State Board of Education (SBE) for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

The availability of sufficient textbooks and other instructional materials, as defined in *Education Code* Section 60119, for each pupil, including English learners, in each of areas enumerated in clauses (i) to (iii), inclusive. If the governing board determines, pursuant to Section 60119, that there are insufficient textbooks or instructional materials, or both, it shall include information for each school in which an insufficiency exists, identifying the percentage of pupils who lack sufficient standards-aligned textbooks or instructional materials in each subject area. The subject areas to be included are all of the following:

(i) The core curriculum areas of reading/language arts, mathematics, science, and history/social science.
(ii) Foreign language and health.
(iii) Science laboratory equipment for grades 9 to 12, inclusive, as appropriate.

"Sufficient textbooks or instructional materials" means that each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home. This paragraph does not require two sets of textbooks or instructional materials for each pupil. Sufficient textbooks or instructional materials does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

Education Code Section 33126 (b)(6)(A)
Education Code Section 33126 (b)(6)(B)
Education Code Section 60119 (c)

Definitions

List of all textbooks and instructional materials used in the school in the core subjects (English-language arts, mathematics, science, and history-social science), including:

- The year in which they were adopted.
- Whether they were selected from the most recent list of standards-based materials adopted by the SBE (kindergarten and grades one through eight) or the local governing board (grades nine through twelve), and which are consistent with the content and cycles of the curriculum frameworks adopted by the State Board of Education.

- For kindergarten and grades one through eight, the list of textbooks and instructional materials should also include any supplemental curriculum adopted by the local governing board.

If schools with kindergarten and grades one through eight are using textbooks and instructional materials that are not from the most recent state-approved list, provide an explanation of why non-adopted materials are being used and how they are aligned with state standards.

If an insufficiency exists, the description must identify the percent of pupils who lack sufficient textbooks and instructional materials.

The description should use the most recent available data collected by the LEA. The year and month in which the data were collected should also be identified.

Guidelines and Data Sources

Local governing board resolutions concerning the adoption and availability of sufficient textbooks and instructional materials should contain much of the information needed for this reporting element. In addition, LEA curriculum departments should have records of the ordering and distribution of adopted textbooks and instructional materials.

Data provided by the LEA

Expenditures Per Pupil and School Site Teacher Salaries

Specific Requirements

The assessment of estimated expenditures per pupil shall reflect the actual salaries of personnel assigned to the school site. The assessment of estimated expenditures per pupil shall be reported in total, shall be reported in subtotal by restricted and unrestricted source, and shall include a reporting of the average of actual salaries paid to certificated instructional personnel at that school site.

A comparison of the actual unrestricted funding per pupil allocated for the specific benefit of the school or for the benefit of all schools in the district equally, compared to the district wide average and to the state average of the same computation. The comparison shall include the percentage by which the school is above or below the district wide average and the state average.

A field for reporting the actual restricted funding, per pupil, allocated for the specific benefit of the school or for the benefit of all schools in the district equally.

A reporting of the average of actual salaries paid to certificated instructional personnel at the school site.

A comparison of the average of actual salaries paid to certificated instructional personnel at the school site, compared to the district wide average and to the state average of the same computation. The comparison shall also include the percentage by which the school is above or below the district wide average and the state average.

Education Code Section 33126 (b)(3)
Education Code Section 33126.15 (b)
Education Code Section 33126.15 (c)
Education Code Section 33126.15 (d)

Definitions

Restricted source means money whose use is restricted by legal requirement or by the donor. Examples include, but are not limited to, instructional materials, economic impact aid, and teacher and principal training funds.

Unrestricted source means money that can be used for any lawful purpose, whose use is not restricted by legal requirement or by the donor. Examples include, but are not limited to, class size reduction, state lottery (not instructional materials portion), and undesignated local parcel tax funds. For more information about classifying revenues and expenditures, see Procedure 310 in the *California School Accounting Manual* at http://www.cde.ca.gov/fg/ac/sa.

Guidelines and Data Sources
LEAs should use a consistent methodology for calculating estimated per pupil expenditures at the school site and district levels. For pupil counts, LEAs should use the annual Average Daily Attendance (ADA) figure for the school site. LEAs should note on the report card the year from which the estimated expenditures per pupil data were collected.

The CDE calculates state average expenditures per pupil from an unrestricted source, using 2005-06 data, for report cards published in the 2007-08 school year. For pupil counts, the CDE uses the statewide ADA from the annual reporting period. The CDE's calculation is based on *Education Code* Section 41372 definitions (see http://www.cde.ca.gov/ds/fd/ec/), modified to include only unrestricted sources in the calculation.

In calculating the average actual teacher salary at each school site, LEAs should use a consistent methodology. Teachers include all certificated instructional personnel measured on a FTE basis. To calculate the average teacher salary at the school site, LEAs should divide the total actual salaries paid to certificated instructional personnel at the school site by the FTE of certificated instructional personnel at the school site. LEAs should note on the report card the year from which the teacher salary data were collected.

The CDE calculates district and state average teacher salaries, using 2005-06 data, for report cards published in the 2007-08 school year. Average teacher salaries at the district and state levels are derived from information collected on CDE Form J-90. These averages, which reflect only those salaries in school districts that submitted Form J-90, are calculated by dividing the salaries paid on the certificated salary schedule by the total number of FTE employees included on that schedule. For more information, see http://www.cde.ca.gov/ds/fd/cs/.

Data provided by the LEA and the CDE

Types of Services Funded

Specific Requirements

Types of services funded.

Education Code Section 33126 (b)(3)

Definitions

Description of the programs and supplemental services that are provided at the school either through categorical funds or other sources.

Guidelines and Data Sources

Narrative should be developed by the LEA/school that provides 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 status.

Data provided by the LEA

Teacher and Administrative Salaries

Specific Requirements

Each school district, except for school districts maintaining a single school to serve kindergarten or any of grades one through twelve, shall include all of the following:

- The beginning, median, and highest salary paid to teachers in the district, as reflected in the district's salary scale
- The average salary for school site principals in the district, by school type
- The statewide average salary for the appropriate size and type of district for the beginning, midrange, and highest salary paid to teachers
- The statewide average salary for the appropriate size and type of district for school site principals
- The salary of the district superintendent
- The statewide average salary for the appropriate size and type of district for district superintendents
- The percentage allocated under the district's corresponding fiscal year expenditures for the salaries of teachers
- The statewide average of the percentage of school district expenditures allocated for the salaries of teachers for the appropriate size and type of district for the most recent fiscal year
- The percentage allocated under the district's corresponding fiscal year expenditures for the salaries of administrative personnel
- The statewide average of the percentage of school district expenditures allocated for the salaries of administrative personnel for the appropriate size and type of district for the most recent fiscal year

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)

Definitions

The beginning, median, and highest salary paid to teachers in the district, as reflected in the district's salary scale. Average salary data are based on salaries actually paid to administrators.

The average annualized salary for school site principals is reported on CDE Form J-90.

The district superintendent's annualized salary is reported on CDE Form J-90.

Statewide salary figures for teachers, principals, and superintendents are derived from information collected on CDE Form J-90. The figures reflect only those salaries in school districts that submitted CDE Form J-90. A weighting methodology was used to determine average paid salaries.

The percentage of a district budget for teacher salaries is California School Accounting Manual Object of Expenditure Account 1100 divided by total general fund accounts 1000 through 7999.

The statewide average for a district's percent of budget for teacher salaries is defined in object of expenditure classification 1100 of the California School Accounting Manual.

The percentage of the district budget for administrative salaries is the sum of California Accounting Manual Object of Expenditure Accounts 1200, 1300, 1700, 1800, and 2200 divided by total general fund accounts 1000 through 7999.

The statewide average for a district's percent of budget for administrative salaries is defined in object of expenditure classifications 1200, 1300, 1700, 1800, and 2200 (Objects 1300 and 2300 using the standardized account code structure coding) of the California School Accounting Manual.

Definitions and information provided by the CDE and reported to county offices of education and school districts by means of an annual management bulletin from the CDE's fiscal branch.

Guidelines and Data Sources

State certification/release dates for fiscal data occur in middle to late spring, precluding the inclusion of 2006-07 data in most cases. Therefore, 2005-06 data are used for report cards prepared during 2007-08.

Since these data are older than those of other elements of the report, a brief narrative to explain resulting anomalies may be added, if appropriate.

Additional information regarding the calculation of average salary data may be obtained at http://www.cde.ca.gov/ta/ac/sa/salaries0405.asp and http://www.cde.ca.gov/ds/fd/cs.

Data provided by the CDE

California Standards Test Results for All Students – Three-Year Comparison

Specific Requirements

Pupil achievement by grade level, as measured by the Standardized Testing and Reporting (STAR) Program.

Information, in the aggregate, on student achievement at each proficiency level on the state academic assessments.

The most recent two-year trend in student achievement in each subject area and for each grade level.

In the case of a school, information that shows how the students' achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the state as a whole.

In the case of a local educational agency, information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the state as a whole.

The percentage of students not tested.

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)

Definitions

For the most recent three-year period:

Data are provided for each content area for which the SBE has established performance levels. Data are reported as the percentage of students achieving at the Proficient or Advanced level.

In lieu of providing grade level data and the percent of students not tested, a link to the STAR Web site may be provided in the report card.

Guidelines and Data Sources

Subject areas and grade levels for which California Standards Test (CST) data will be available and required to be included in reports prepared in the 2007-08 school year include:

- English-language arts in grades two through eleven for 2004-05, 2005-06, and 2006-07
- Mathematics in grades two through eleven for 2004-05, 2005-06, and 2006-07
- Science in grades five, eight, and nine through eleven for 2004-05, 2005-06, and 2006-07
- History-social science in grades eight through eleven for 2004-05, 2005-06, and 2006-07

Data are reported from the STAR Program and may be obtained at http://star.cde.ca.gov/.

Note: Student proficiency levels may differ between the CST and the AYP based on inclusion and exclusion requirements. Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

Data provided by the CDE

California Standards Test Results by Student Group – Most Recent Year

Specific Requirements

Information on student achievement at each proficiency level on the state academic assessments disaggregated by race and ethnicity, and disaggregated by gender, disability status, migrant status, English proficiency, and status as economically disadvantaged.

Pupil achievement by grade level, as measured by the Standardized Testing and Reporting (STAR) Program.

The most recent two-year trend in student achievement in each subject area and for each grade level.

The percentage of students not tested.

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)

Definitions

For the most recent testing period:

Data are provided for each content area for which the State Board of Education has established performance levels. Data are reported as the percentage of students achieving at the proficient or advanced level.

Data are disaggregated for specific subgroups (if they are numerically significant at the school level). These subgroups are: gender, race/ethnicity, English learner, economically disadvantaged status, students with disabilities, and participation in migrant education programs.

In lieu of providing grade level data and the percent of students not tested, a link to the STAR Web site may be provided in the report card.

Guidelines and Data Sources

Subject areas and grade levels for which California Standards Test data will be available and required to be included in reports prepared in the 2007-08 school year include:

- English-language arts in grades two through eleven for 2004-05, 2005-06, and 2006-07

- Mathematics in grades two through eleven for 2004-05, 2005-06, and 2006-07
- Science in grades five, eight, and nine through eleven for 2004-05, 2005-06, and 2006-07
- History-social science in grades eight through eleven for 2004-05, 2005-06, and 2006-07

Data are reported from STAR and may be obtained at http://star.cde.ca.gov/.

Note: Student proficiency levels may differ between the CST and the AYP based on inclusion and exclusion requirements. Scores are not shown when the number of students tested is 10 or less because the number of students in this category is to small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

Data provided by the CDE

Norm-Referenced Test Results for All Students – Three-Year Comparison

Specific Requirements

Pupil achievement by grade level, as measured by the Standardized Testing and Reporting (STAR) Program.

Education Code Section 33126 (b)(1)(A)

Definitions

For the most recent three-year period:

Data are provided for reading and mathematics for each grade level as the percentage of students taking the state-approved norm-referenced test that scored at or above the 50th percentile.

Guidelines and Data Sources

Reading and mathematics results are from the norm-referenced test adopted by the State Board of Education in 2003 (the California Achievement Test, Sixth Edition). The results are reported as the percent of tested students scoring at or above the 50th percentile (the national average). School results are compared to results at the district and state levels.

In lieu of providing grade level data, a link to the STAR Web site may be provided in the report card.

Data are reported from STAR and may be obtained at http://star.cde.ca.gov/.

Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

Data provided by the CDE

Norm-Referenced Test Results by Student Group – Most Recent Year

Specific Requirements

Pupil achievement by grade level, as measured by the Standardized Testing and Reporting (STAR) Program.

Education Code Section 33126 (b)(1)(A)

Definitions

For the most recent testing period:

Data are provided for reading and mathematics, disaggregated for racial and ethnic subgroups (if they are numerically significant at the school level), as the percentage of students taking the state-approved norm-referenced test that scored at or above the 50th percentile. The data are also disaggregated by the following: gender, English learner, economically disadvantaged status, students with disabilities status, and participation in migrant education.

In lieu of providing grade level data, a link to the STAR Web site may be provided in the report card.

Guidelines and Data Sources

Data are reported from STAR and may be obtained at http://star.cde.ca.gov/.

Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

Data provided by the CDE

Local Assessment Results

Specific Requirements

Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district, using percentiles when available for the most recent three-year period.

Education Code Section 33126 (b)(1)(B)

Definitions

For the most recent three-year period:

Data are to be provided by grade level for local assessment results in reading, writing, and mathematics, as the percent of students achieving at the proficient level (either meeting or exceeding the district standard).

Guidelines and Data Sources

If the school is using a local assessment tool, the results of the assessment should be reported for any grade levels for which there are data. A brief description of the assessment tool should also be included in the report card.

Data provided by the LEA

California Physical Fitness Test Results

Specific Requirements

Pupil achievement on a statewide physical fitness assessment, by grade level.

Education Code Section 33126 (b)(1)(C)

Definitions

For the most recent year reported:

The percentage of students scoring in the healthy fitness zone on all six fitness standards.

Data are to be reported at the school level by grade.

Guidelines and Data Sources

Education Code Section 60800 refers to a requirement that schools with grades five, seven, and nine shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Detailed information regarding this test, and comparisons of a school's test results to the district and state levels, may be found on the CDE Web site at http://www.cde.ca.gov/ta/tg/pf/.

Note: Scores are not shown when the number of students tested is 10 or less because the number of students in this category is too small for statistical accuracy or privacy protection. In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual student.

Data provided by the CDE

Academic Performance Index Ranks – Three-Year Comparison

Specific Requirements

The Academic Performance Index (API), including the disaggregation of subgroups, the decile rankings, and a comparison of schools.

Aggregate information on any other indicators used by the state to determine the adequate yearly progress of students in achieving state academic achievement standards.

Education Code Section 33126 (b)(18)
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)(I)

Definitions

For the most recent three-year period, the school's:

- Statewide API rank (range: 1-10)
- Similar schools rank (range: 1-10)

Guidelines and Data Sources

This item is a requirement of both state law and NCLB. For federal accountability purposes, California uses the API to meet the Adequate Yearly Progress (AYP) requirement for an additional indicator.

Data are reported from the API Base Reports and may be obtained at http://www.cde.ca.gov/ta/ac/ap/.

Data provided by the CDE

Academic Performance Index Changes by Student Group – Three-Year Comparison

Specific Requirements

The Academic Performance Index (API), including the disaggregation of subgroups, the decile rankings, and a comparison of schools.

Aggregate information on any other indicators used by the state to determine the adequate yearly progress of students in achieving state academic achievement standards.

Education Code Section 33126 (b)(18)
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)(I)

Definitions

For all students at the school as well as for all subgroups for which numerically significant data are reported by the CDE:

- Actual API changes (growth) for the most recent three years of testing
- The most recently published API (growth) score

Guidelines and Data Sources

This item is a requirement of both state law and NCLB. For federal accountability purposes, California uses the API to meet the Adequate Yearly Progress requirement for an additional indicator.

Data are reported from the API and may be obtained at http://www.cde.ca.gov/ta/ac/ap/.

Data provided by the CDE

State Award and Intervention Programs

Specific Requirements

Whether the school qualified for the Immediate Intervention Underperforming Schools Program (II/USP) pursuant to *Education Code* Section 52053 and whether the school applied for and received a grant pursuant to that program.

Whether the school qualifies for the Governor's Performance Award Program.

Education Code Section 33126 (b)(19)
Education Code Section 33126 (b)(20)

Definitions

Indication of whether the school qualified for the II/USP pursuant to *Education Code* Section 52053, whether the school applied for and received a grant pursuant to that program, and whether the school qualifies for the Governor's Performance Award Program.

Guidelines and Data Sources

Schools subject to state intervention under the II/USP are identified at http://www.cde.ca.gov/ta/lp/sm/smslist.asp.

For the Governor's Performance Award Program, data are reported from the API and may be obtained at: http://www.cde.ca.gov/ta/sr/gp/.

Data provided by the CDE

Adequate Yearly Progress Overall and by Criteria

Specific Requirements

Information on the performance of local educational agencies in the state regarding making adequate yearly progress (AYP).

Public Law 107-110 Section 1111 (h)(1)(C)(vii)
Public Law 107-110 Section 1111 (h)(2)(B)(i)(I)

Definitions

For the most recent year, indication of whether the school and the district:

- Made AYP overall (met all criteria, met exception or “safe harbor” criteria, or received an approved appeal)
- Met each of the four AYP criteria (participation rate, percent proficient, API, and graduation rate)

AYP criteria for participation rate and percent proficient each include the content areas of English-language arts (ELA) and mathematics.

Guidelines and Data Sources

NCLB requires that all students perform at or above the proficient level on the state's standards-based assessment by 2014. Prior to 2014, to achieve this goal and meet annual requirements for improved performance, schools and districts must improve each year according to set requirements. To make AYP, schools and districts are required each year to meet or exceed specific criteria in each of the following:

- 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)

Requirements 1 and 2 apply at the school, district, and subgroup levels. Requirements 3 and 4 apply only at the school and district levels, unless exception or “safe harbor” criteria are used.

Data, including subgroup results, may be obtained at the AYP Web site at http://www.cde.ca.gov/ta/ac/ay/.

Data provided by the CDE

Federal Intervention Program

Specific Requirements

In the case of a school, whether the school has been identified for school improvement.
In the case of a local educational agency, the number and percentage of schools identified for school improvement and how long the schools have been so identified.

Public Law 107-110 Section 1111 (h)(2)(B)(i)(I)
Public Law 107-110 Section 1111 (h)(2)(B)(ii)(I)

Definitions

Indication of whether the school has been identified for Title I Program Improvement (PI) and if so, the first year of implementing PI requirements and the year in PI.

Indication of whether the district has been identified for PI and if so, the first year of implementing PI requirements and the year in PI.

Indication of the number and percent of the district's schools currently in PI.

Guidelines and Data Sources

LEAs were first identified for PI in 2004-05 based on AYP determinations for 2003-04. Only schools and districts receiving Title I funding are eligible for PI identification and interventions.

The percent of a district's schools in PI is based on the number schools in PI divided by the total number of Title I schools in the district. Direct-funded charter schools are not included in the district figures.

Additional information and data regarding PI may be obtained at http://www.cde.ca.gov/ta/ac/ay/.

Data provided by the CDE

Dropout Rate and Graduation Rate

Specific Requirements

Progress toward reducing dropout rates, including the one-year dropout rate listed in the CBEDS or any successor data system for the school site, over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period.

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)

Definitions

For the most recent three-year period for which data is available, the one-year dropout rate pursuant to the following CBEDS formula: (grades 9-12 dropouts) divided by (grades 9-12 enrollment) x 100.

Until statewide student-level longitudinal data are available, data reported regarding graduation rates will be reported in accordance with the formula negotiated with and approved by the U.S. Department of Education pursuant to NCLB. This formula, which represents a four-year high school completion rate, is calculated by dividing the number of high school graduates by the sum of dropouts for grades 9 through 12, respectively, in consecutive years, plus the number of high school graduates. The rate incorporates four years of data and thus is an estimated cohort rate. Put simply, this rate asks, "Of those students who have left school, what proportion have done so as graduates?" If a hypothetical graduating class began as ninth graders in Year 1, this four-year "graduation" rate would look like the following:

(High school graduates Year 4) divided by
{dropouts (grade 9 Year 1 + grade 10 Year 2 + grade 11 Year 3
+ grade 12 Year 4) + high school graduates Year 4}

For comparison purposes, data are also provided at the district and state levels.

Guidelines and Data Sources

Dropout rate data are reported from CBEDS. Graduation rate data are reported from the Adequate Yearly Progress Report.

State certification/release dates for dropout data (available during the spring of each year) occur too late for inclusion of 2006-07 data with other data from that year. Therefore, 2005-06 data is used for report cards prepared during 2007-08. Since these data are older than those of other elements of the report, a brief narrative to explain resulting anomalies may be added, if appropriate.

A dropout report may be generated at http://dq.cde.ca.gov/dataquest/. A graduation rate report may be generated at http://dq.cde.ca.gov/dataquest/.

Data provided by the CDE

Completion of High School Graduation Requirements

Specific Requirements

The percentage of pupils, including the disaggregation of subgroups, completing grade 12 who successfully pass the high school exit examination as compared to the percentage of pupils in the district and statewide completing grade twelve who successfully pass the examination.

Education Code Section 33126 (b)(21)

Definitions

The percent of the school's most recent graduating class that met all state and local graduation requirements for grade 12 completion, including having passed both portions of the California High School Exit Examination (CAHSEE) or received a local waiver or state exemption. Data are provided at the school, district, and state levels for all students and for those subgroups for which numerically significant data are reported by the CDE.

Example: (The number of students who meet all graduation requirements and pass both portions of the high school exit exam)/(The number of students enrolled in the 12th grade at the time of the annual CBEDS October data collection)

Guidelines and Data Sources

Students in California public schools must pass both the English-language arts and mathematics portions of the CAHSEE to receive a high school diploma. Detailed information about the CAHSEE can be found on the CDE Web site at http://www.cde.ca.gov/ta/tg/hs/.

Data reported at the school and district levels are to come from local sources. Until statewide student-level longitudinal data are available, data reported at the state level represent estimates.

Note: The denominator in calculating the graduation rate is represented by the number of students that began the school year as evidenced by that school year's CBEDS October enrollment.

Data provided by the LEA and the CDE

Career Technical Education Programs

Specific Requirements

The degree to which pupils are prepared to enter the workforce.

Career technical education (CTE) measures, including a list of CTE programs offered by the district that pupils at the school may participate in and that are aligned to the applicable model curriculum standards; a list of CTE program sequences offered by the district; an identification of courses conducted by a regional occupational center or program, and those conducted directly by the district; and a listing of the primary representative of the district's career technical advisory committee and the industries represented.

Education Code Section 33126 (b)(14)
Education Code Section 33126 (b)(25)(A)
Education Code Section 33126 (b)(25)(B)

Definitions

Description of:

- Programs and classes offered by the school 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 for effectiveness in attaining those outcomes

Guidelines and Data Sources

Description of the size and scope of the CTE programs and courses offered:

- Directly at the school
- Through Regional Occupational Centers and Programs (ROCPs)
- In partnership academies and career academies
- In Specialized Secondary Programs, etc.

Description of how these programs and classes support academic achievement as evidenced by:

- Courses that have been revised to incorporate state-adopted academic standards
- Courses that satisfy the district's graduation requirements
- Courses that satisfy the A-G entrance requirements for the UC and CSU systems

Description of steps the school takes to assure equitable access and successful outcomes for all students in career technical programs and courses by:

- Counseling and guidance
- Professional development
- Additional support services such as child care, transportation, etc.
- Collaborating with youth development and economic development systems in the region

Description of the outcomes or criteria utilized by the school to measure the effectiveness of these programs and courses, such as:

- Mastery of "employment readiness standards," both basic and industry-specific
- Results of career technical skills assessments
- Business, labor, and other community stakeholder support
- Participation in career technical student organizations
- Placement of program completers in employment, postsecondary education, or the military

Additional guidance for reporting on this data element may be obtained at http://www.cde.ca.gov/ci/ct/pk/.

Data provided by the LEA

Career Technical Education Participation

Specific Requirements

Career technical education (CTE) measures, including the number of pupils participating in CTE; the percentage of pupils that complete a CTE program and earn a high school diploma; and the percentage of CTE courses that are sequenced or articulated between a school and institutions of postsecondary education.

Education Code Section 33126 (b)(25)(C)
Education Code Section 33126 (b)(25)(D)
Education Code Section 33126 (b)(25)(E)

Definitions

Data provided include:

- The number of pupils participating in CTE
- The percentage of pupils that complete a CTE program and earn a high school diploma

  Example: (The number of students that completed a CTE program and graduated) / (The total number of students enrolled in a CTE program)

- The percentage of CTE courses that are sequenced or articulated between a school and institutions of postsecondary education

  Example: (The number of CTE courses that are sequenced or articulated) / (The total number of CTE courses)

Guidelines and Data Sources

Statistical data may be found in the annual *Report of Career-Technical Education Enrollment and Program Completion*.

The “number of pupils participating in CTE” may report duplicated counts as a result of pupils participating in more than one CTE program.

Other data available on outcomes of the school's CTE programs, including data from related programs, such as the Workforce Investment Act, may also be provided.

Information concerning the total number of students participating in a CTE program and the percent of students completing a CTE program and earning a high school diploma can be found at this link via the CDE 101 E2 Report of Career Technical Education Enrollment and Program Completion. Additional CTE program information is available at http://www.cde.ca.gov/ci/ct/pk/.

Percent of CTE courses that are sequenced or articulated provided by the LEA

All other data provided by CDE

Courses for University of California and/or California State University Admission

Specific Requirements

For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California (UC) and the California State University (CSU) and the percentage of students enrolled in those courses.

Education Code Section 33126 (b)(23)

Definitions

The percent of student enrollment in courses required for UC/CSU admission is equal to the total student enrollment in courses required for UC and/or CSU admission divided by the total student enrollment in all courses for the most recent year.

Note: Each student is counted in each course in which the student is enrolled. As a result of these duplicated counts, the number of students enrolled in all courses will, and the number students enrolled in courses required for UC and/or CSU admission may, exceed the actual student enrollment figure for the school.

The percentage of graduates who completed all courses required for UC/CSU admission is equal to the number of graduates who have passed course requirements for UC/CSU admission divided by the school's CBEDS total graduates for the most recent year.

Guidelines and Data Sources

Data are reported from CBEDS.

A report may be generated at http://dq.cde.ca.gov/dataquest/.

Data provided by the CDE

Advanced Placement Courses

Specific Requirements

The number of Advanced Placement (AP) courses offered, by subject.

Education Code Section 33126 (b)(17)

Definitions

The number of AP courses offered, by subject, for the most recent year.

The percent of the school's students enrolled in AP courses, which is equal to the total student enrollment in the school's AP courses for the most recent year divided by the total student enrollment in all courses for the most recent year.

Note: Each student is counted in each course in which the student is enrolled. As a result of these duplicated counts, the number of students enrolled in all courses will, and the number students enrolled in AP courses may, exceed the actual student enrollment figure for the school.

Guidelines and Data Sources

Data are reported from CBEDS.

A report may be generated at http://dq.cde.ca.gov/dataquest/.

LEAs may also report International Baccalaureate (IB) courses offered, by subject; the title and number of AP and IB classes offered in each subject area; and the student enrollment levels in both AP and IB classes.

Data provided by the CDE

College Admission Test Preparation Course Program

Specific Requirements

Whether the school has a college admission test preparation course program.

Education Code Section 33126 (b)(24)

Definitions

Indicate whether the school has a college admission test preparation course program, and if so, describe the program.

Guidelines and Data Sources

Narrative is developed by the LEA/school.

Data provided by the LEA

SAT Reasoning Test

Specific Requirements

Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

Education Code Section 33126 (b)(1)(D)

Definitions

For the most recent three-year period:

Percent of the school's grade 12 enrollment who voluntarily take the SAT Reasoning Test, and the average verbal, math, and writing scores of those students.

Note: Students may take the test more than once, but only the most recent score is reported at the year of graduation.

The data reported should also include the average writing score.

Guidelines and Data Sources

Some schools may wish to report American College Test (ACT) results in addition to those from the SAT Reasoning Test.

SAT Reasoning Test results may be found at http://www.cde.ca.gov/ds/sp/ai/.

ACT results may be found at http://www.cde.ca.gov/ds/sp/ai/.

Data provided by the CDE

School Instruction and Leadership

Specific Requirements

Quality of school instruction and leadership.

Education Code Section 33126 (b)(13)

Definitions

School instruction: Description of the instructional program for all students, the support and services available for students with special needs, and the process for monitoring student progress toward standards.

Leadership: Description of the experience and tenure of the school principal. If the school has a designated leadership team, description of its membership, roles, and purpose.

Guidelines and Data Sources

Narrative is developed by the LEA/school. Questions that may be answered include:

- What are the experience and tenure of the principal?
- How does the administrator involve parents and staff in decision-making?
- Does the school have a "recognized" leadership team? If yes, describe its purpose, members, roles, and responsibilities.
- What is the instructional program for all students? Is there a school wide instructional focus? How is standards-based instruction delivered?
- What support and services are available for students with special needs, including GATE students, at-risk students, English learners, and students with disabilities? Are after-school and tutoring programs offered?
- What processes are available for monitoring student performance and progress? How is student progress reported to students, parents, staff, and the school community?

Data provided by the LEA

Professional Development

Specific Requirements

Opportunities for professional improvement, including the annual number of school days dedicated to staff development for the most recent three-year period.

Teacher and staff training, and curriculum improvement programs.

Education Code Section 33126 (b)(10)
Education Code Section 33126 (b)(12)

Definitions

Description of how teachers and staff are trained for instructional improvement.

The number of days provided for professional development and continuous professional growth.

Guidelines and Data Sources

Narrative is developed by the LEA/school.

How do the following teachers and staff participate in staff development to help them improve instruction:

- All classroom teachers
- New teachers (e.g., BTSA)
- Non-classroom teachers
- National Board Certified Teachers
- Teachers experiencing difficulty/in need of improvement (e.g., Peer Assistance and Review)
- Paraprofessionals (e.g., instructional aides, teacher assistants)
- Non-instructional support staff (e.g., clerical, custodial)

Questions that may be answered include:

- What are the primary/major areas of focus of staff development and specifically how were they selected? For example, were student achievement data used to determine 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, and individual mentoring)?

- How are teachers supported during implementation (e.g., through in-class coaching, teacher-principal meetings, and student performance data reporting)?

Data provided by the LEA

Instructional Minutes

Specific Requirements

The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year that are required by state law, separately stated for each grade level.

Education Code Section 33126 (b)(15)

Definitions

List of the total number of overall instructional minutes by grade level in comparison to 36,000 minutes for kindergarten; 50,400 minutes for grades one through three; 54,000 minutes for grades four through eight; and 64,800 minutes for grades nine through twelve.

Guidelines and Data Sources

Instructional minutes requirements are governed by *Education Code Section* 46201.

The total number of instructional minutes includes actual passing time between classes, not to exceed 10 minutes for any one passing.

Note: When you have "lunch", "breaks, or "recess", you exclude that period of time when you determine the passing time. You count passing time from the class before lunch to the class after lunch, as if lunch did not happen. The same passing time is counted with passing from a class before a break to a class after a break. If the student goes from the classroom, to break or lunch, then back to the same classroom, then there is no passing time for instructional minutes' calculation purposes.

Data provided by the LEA

Continuation School Instructional Days

Specific Requirements

The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year that are required by state law, separately stated for each grade level.

Education Code Section 33126 (b)(15)

Definitions

For a continuation school, list of the total number of instructional days offered per school year, by grade level for grades nine through twelve, with each instructional day containing at least 180 instructional minutes.

Guidelines and Data Sources

The statute governing instructional minutes at a continuation school is *Education Code* Section 46170.

Data provided by the LEA

Minimum Days in School Year

Specific Requirements

The total number of minimum days in the school year.

Education Code Section 33126 (b)(16)

Definitions

Statement regarding the total number of days in the most recent school year that students attended school on a shortened day schedule (less than a regular school day).

Description of the reasons for the shortened day schedule.

Guidelines and Data Sources

Information and narrative are developed by the LEA/school.

Data provided by the LEA

ITEM #12

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Update on issues related to California's implementation of No Child Left Behind and other federal programs	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This standing item allows the CDE to brief the SBE on timely topics related to No Child Left Behind (NCLB) and other federal programs.

SUMMARY OF KEY ISSUES

Title I Compliance Monitoring Visit

California is scheduled to receive a Title I Compliance Monitoring visit from the U.S. Department of Education August 13-17, 2007. Title I Programs under review are: Part A, Basic; Part B, Even Start; Part D, Neglected, Delinquent, or At-Risk; and Title X, Part C, McKinney-Vento Homeless Education. Monitoring Indicators have been provided in the areas of: 1) standards, assessment and accountability; 2) program improvement; 3) parental involvement and options; and 4) fiduciary responsibility.

Program Improvement Districts in Corrective Action

Four regional forums were held this spring to discuss the possible federal sanctions the state educational agency will be required to assign to Program Improvement districts in Year 3 Corrective Action status this coming fall. The 100 districts at risk of receiving such a sanction were invited to attend. Wendy Harris, Director of the School Improvement Division, will give an oral update on the information received as a result of the forums.

SUMMARY OF KEY ISSUES (Cont.)

Highly Qualified Teacher Data

Title II staff will provide highly qualified teacher data related to NCLB core academic classes taught by highly qualified teachers as reported on the October 2006 California Basic Educational Data System-Professional Assignment Information Form and updated with data received by June 30, 2007, via the Consolidated Application. This will include data on teachers in alternative education programs. Staff will also report on progress of districts participating in the Compliance Monitoring, Interventions and Sanctions Programs, including a description of technical assistance being provided to these districts.

NCLB/ Individuals with Disabilities Education Act (IDEA) Symposium

In an effort to promote dialogue and strengthen collaboration among state agencies, educational organizations, and practitioners in the field in developing solutions and resources related to NCLB and IDEA, a Symposium was held June 11 and 12. This NCLB/IDEA Symposium was a collaborative effort between the CDE and the Commission on Teacher Credentialing, with the support of the California Comprehensive Center at WestEd. The purpose of the event was to identify issues, solutions, and resources around the intersect of NCLB and IDEA in two critical areas: teacher quality and curriculum and instruction. Mary Hudler, Director of the Special Education Division, and Phil LaFontaine, Director of the Professional Development and Curriculum Support Division, will provide an oral update on the outcomes of the Symposium.

Reauthorization Recommendations

On June 4, 2007, Superintendent O'Connell released Reauthorization Recommendations for the Elementary and Secondary Education Act of 1965. The document was produced after nine months of discussions with California's education community, members of the public, and state policymakers. Copies of the document have been previously mailed to all Board members.

FISCAL ANALYSIS (AS APPROPRIATE)

Any State or Local Educational Agency that does not abide by the mandates of provisions of NCLB is at risk of losing federal funding.

ATTACHMENT(S)

None.

ITEM #~~_____~~#13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Mathematics and Reading Professional Development Program, Senate Bill 472, (Chapter 524, Statutes of 2006): Approve Commencement of Third 15-Day Comment Period for Proposed Amendments to Title 5 Regulations	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the proposed amendments to the regulations;
- Direct that the proposed amendments be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no comments to the revisions are received during the 15-day public comment period, CDE shall complete the rulemaking package and submit the amended regulations to the Office of Administrative Law for approval; and
- If any relevant comments to the revisions are received during the 15-day public comment period, CDE shall place the amended regulations on the SBE's September 2007 agenda for action following consideration of the comments received.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On January 10, 2007, the SBE approved the commencement of the rulemaking process for the proposed emergency regulations to the Mathematics and Reading Professional Development (MRPD) program and directed staff to begin the 45-day written comment period. On January 29, 2007, the emergency regulations were withdrawn because they did not meet the criteria of emergency according to the Office of Administrative Law. On January 20, 2007, the Notice of Proposed Rulemaking was posted. The 45-day public comment period ended on March 16, 2007.

At the May 2007 SBE meeting, the SBE approved amendments to the regulations and directed that the proposed amendments be circulated for a 15-day comment period. The public comment period began on May 9, 2007, and ended on May 25, 2007.

SUMMARY OF KEY ISSUES

The MRPD regulations serve to guide local educational agencies and training providers in the implementation of the professional development program. Regulations regarding the 40-hour English Learner Professional Development (ELPD) program were not included in the proposed regulations provided to the SBE in January 2007 because, although members of the ELPD Advisory Committee had been appointed in December 2006 by the State Superintendent of Public Instruction (SSPI), they did not meet until February 2007. The legislated purpose of the ELPD Advisory Committee was to make recommendations to the SSPI regarding training providers, training criteria, implementation of the program, and whether or not the training should be extended to subject areas other than reading and mathematics.

The CDE and SBE staff relied upon the ELPD Advisory Committee's recommendations during the writing of the proposed amendments. As such, on June 6, 2007, a public notice regarding the recommendations of the Advisory Committee titled, Notice of Documents Relied Upon in Amending the Regulations, was posted. The 15-Day public comment period began on June 7, 2007, and ended on June 21, 2007.

The proposed amendments include: (1) regulations for funding allocation for teachers of English learners; (2) regulations for training curriculum for ELPD; (3) regulations for curriculum review of ELPD; (4) regulations for training providers of ELPD; (5) clarification of funding related to the 80 hours of follow-up professional development, including ELPD; and (6) clarification of the review process for training curriculum and training providers related to the initial 40 hours of training and ELPD.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal analysis was submitted at the May 2007 SBE meeting.

ATTACHMENT(S)

Attachment 1: Proposed amended regulations
Title 5. EDUCATION
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 21. Mathematics and Reading Professional Development Program (25 pages)

Attachment 2: Final Statement of Reasons (46~~8~~ pages)

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 21. Mathematics and Reading Professional Development Program

Renumber 11981 to 11980

§~~11981~~11980. Teacher Eligibility.

In addition to those teachers identified in Education Code ~~S~~section 99233, teachers who are employed in a public school, who hold a multiple-subject credential, and whose primary assignment is to teach in a classroom that is not self-contained~~, and who are employed in a public school, will~~ shall be eligible to receive instruction in:

(a) **M~~m~~**athematics if their primary teaching assignment is mathematics, ~~and/or~~ science, or both; ~~and may receive instruction in reading/language arts if their primary teaching assignment is reading/language arts or social science~~

(b) **R~~r~~**eading if their primary teaching assignment is reading/language arts, social science, or both.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99233, Education Code.

Renumber 11982 to 11981

§~~11982~~11981. Funding Allocation for Program Training Pursuant to Education Code Section 99237.

(a) Funds issued to **a** Local Educational Agenc**y~~ies~~** (LEA~~s~~) for ~~**the Mathematics and Reading Professional Development Program**~~ **mathematics or reading/language arts training pursuant to Education Code section 99237** shall be used for expenses related to program training **in accordance with ~~pursuant to Education Code 99234~~ that section**. If **an** LEA~~s~~ **has ~~have~~** any remaining program funds after paying for program training, then those funds shall be spent for additional program training **pursuant to Education Code section 99237** or for **other** professional development related to mathematics or reading/language arts.

~~Funding appropriated but not expended by the end of the fiscal year may be redirected to local educational agencies that have trained more eligible teachers than the percentage funded pursuant to Education Code Section 99234(a).~~

(b) At the end of each **state** fiscal year, the California Department of Education (CDE) shall accrue any remaining balance in the appropriations for this program until funding reverts for a **state** fiscal year. Accrued funding shall be used **only to pay for training completed during the same state fiscal year in which the accrued funding was appropriated. CDE shall allocate accrued funding** ~~**in accordance with**~~ **pursuant to** Education Code section 99234~~**(a)**~~.

(c) Current-year funding shall be allocated in accordance with Education Code section 99234(e).

(d) Reimbursement for program training is limited to those teachers who provide direct instruction to pupils on either a part-time or full-time basis.

(e) Of the $1,000 **stipend** per qualified training ~~**stipend**~~ that a**n** LEA may pay a teacher, no more than $500 may be paid upon completion of the 40 hours of initial training, and no more than $500 may be paid upon completion of the 80 hours of follow-up professional development.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234~~,~~ and 99237, Education Code.

New 11981.3

§11981.3. Funding Allocation for Teachers of English Learners

(a) Program funds issued to an LEA for the 40-hour English learner (EL) professional development for teachers of EL pupils shall be used for the EL professional development program described in Education Code section 99237.5. If an LEA has any remaining program funds after paying for EL professional development, then those funds shall be spent for additional EL professional development pursuant to Education Code section 99237.5 or for other professional development which focuses on improving the delivery of mathematics or reading/language arts instruction to EL pupils.

(b) At the end of each state fiscal year, the CDE shall accrue any remaining balance in the appropriations for this program until funding reverts for a state fiscal year. Accrued funding shall be used only to pay for training completed during the same state fiscal year in which the funding was appropriated. From funds appropriated in the annual Budget Act for Education Code section 99237.5 in a given state fiscal year, the CDE shall allocate accrued funding as follows:

(1) Claims for EL training that are postmarked or faxed to the CDE by November 15th of the following state fiscal year and that meet at least one of the three funding criteria specified in Education Code section 99237.5(c) shall receive first priority for funding. An LEA shall indicate on the claim each criterion under which it qualifies for priority in funding. If funding is insufficient to fully fund all of these claims, then the CDE shall prorate the funds. The proration shall consist of first dividing the funds appropriated in the annual Budget Act by the product of $1,250 and the total number of teachers who received EL training as reflected in these first priority claims. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that the amount appropriated in the annual Budget Act is not exceeded.

(2) If funding remains after paying all the claims specified in subdivision (b)(1), then claims for EL training that are postmarked or faxed to the CDE by November 15th of the following state fiscal year and that do not meet any of the funding criteria specified in Education Code section 99237.5(c) shall receive second priority for funding. If funding is insufficient to fully fund all of these claims, then the CDE shall prorate the funds. The proration shall consist of first dividing the remaining funds by the product of $1,250 and the total number of teachers who received EL training as reflected in these second priority claims. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that

the amount appropriated in the annual Budget Act is not exceeded.

(3) If funding remains after paying all the claims specified in subdivisions (b)(1) and (b)(2), then claims for EL training that are postmarked or faxed to the CDE after November 15th of the following state fiscal year shall be funded on a first-come-first-served basis according to the date the claim is postmarked or faxed and provided the claim is postmarked or faxed by the second March 1st date after the November 15th date in this subdivision. If funding is insufficient to fully fund all the claims received on the same day, then the CDE shall prorate the funds. The proration shall consist of first dividing the remaining funds by the product of $1,250 and the total number of teachers who received EL training as reflected in the claims received by the CDE on that day. The resulting number shall then be multiplied by 100 to determine the maximum percentage of an LEA's trained teachers for which reimbursement may be made pursuant to this subdivision. As it deems necessary, the CDE may adjust the percentage, which shall apply equally to all LEAs, to ensure that the amount appropriated in the annual Budget Act is not exceeded.

(c) If a teacher elects to count the completion of 40-hours EL professional development towards the 80 hours of follow-up professional development described in Education Code section 99237, the LEA may request $1,250 reimbursement after the teacher has completed the 40-hours EL professional development and another $1,250 reimbursement after the teacher has completed the remaining 40 hours of the 80 hours of follow-up professional development. Of these amounts, the LEA may issue an individual teacher stipend up to $500 after completion of the 40-hours EL professional development and up to another $500 after completion of the remaining 40 hours of the 80 hours of the follow-up professional development.

(d) A claim transmitted to the CDE by facsimile during the hours of 12:00 midnight to 5 p.m. is deemed faxed on the date received. A claim that begins transmission on or after 5:01 p.m. is deemed faxed on the next regular business day.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234 and 99237.5, Education Code.

Renumber 11985 to 11981.5

§ ~~11985~~11981.5. ~~Participation Requirement~~ Funding Limitations.

~~(a) The Superintendent of Public Instruction shall award funding to local educational agencies for each participant that fully meets the hour requirements of the Mathematics and Reading Professional Development Program (Article 3, Chapter 5, of Part 65 of the Education Code [Sections 99234(h) and 99237(b)] and Subchapter 21, Chapter 11, Division 1 of Title 5, California Code of Regulations [Section 11980(c)]).~~

(a)~~(b)~~ ~~Beginning in the 2004-05 fiscal year, such~~ ~~f~~Funding **~~from the mathematics and Reading Professional Development Program~~for training pursuant to Education Code section 99237** shall be limited to one 120-hour sequence of professional development divided into 40 hours of initial training and 80 hours of follow-up professional development per subject area for each teacher eligible to receive instruction as set forth in Education Code ~~S~~section 99233 ~~Title 5,~~ and California Code of Regulations, title 5, ~~S~~section ~~11981~~ 11980. **In addition to the funding available under Education Code section 99237, funding for EL training pursuant to Education Code section 99237.5 is limited to a total of 40 hours for each teacher of EL pupils.**

(b)~~(c)~~ ~~Beginning in the 2004-05 fiscal year, such professional development~~ Program funding shall be limited to one training per subject area for each paraprofessional and instructional aide eligible to receive instruction as set forth in Education Code ~~S~~section 99233.

(c)~~(d)~~ Notwithstanding subdivision (a)~~(b)~~, ~~if funding is available at the end of a fiscal year,~~ the State Superintendent of Public Instruction shall also award funding pursuant to Education Code section 99234 for additional professional development training to eligible teachers if any of the following conditions applies:

(1) The ~~local educational agency~~ LEA has ~~changed its~~ adopted a new instructional materials program and approved training is available for the new program;

(2) The teacher's assignment has changed; or

(3) The teacher's course assignment has changed to an area in which the teacher has not previously received the applicable training.

~~(e) If no funding is available at the end of a fiscal year, the Superintendent of Public Instruction shall not award funding for additional professional development training pursuant~~

~~to subdivision (d).~~

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99233, 99234~~(h)~~, 99237~~(b),~~ and **99237.5**, Education Code.

Renumber 11980 to 11982

§~~11980~~11982. Local Education Agencies' Assurances of Compliance.

In addition to the assurances specified in Education Code section 99237(a), an ~~local educational agencies~~ LEA applying for ~~program~~ funding from the Mathematics and Reading Professional Development Program shall provide assurances to the California State Board of Education (SBE) that:

~~(a) the professional development was delivered by a provider or providers approved by the State Board of Education or provided by a California Professional Development Institute that incorporates professional development on instructional materials newly adopted by the State Board of Education and complies with the provisions of Education Code section 99237(a)(2), (b) and (f);~~

~~(b) the local educational agency has or will have by the commencement of training, instructional materials for each student that are aligned to state academic content standards in reading/language arts and mathematics in those grades and subject areas for which the local educational agency intends to receive payment for training teachers, and the local educational agency shall retain and make available for inspection for a minimum of five years documentation of when the local educational agency adopted these materials and for what grade levels;~~

~~(c) the local educational agency will provide a minimum of 20 hours of intensive professional development and a minimum of 20 hours of follow-up professional development to instructional aides and paraprofessionals.~~

(a) **I~~i~~**t has read and is familiar with the regulations governing the program, which include California Code of Regulations, title 5, sections 11980 through **11985.6 ~~11986~~**;

(b)~~(d) the local educational agency~~ **I~~i~~**t will retain and provide all information, including preprogram and postprogram pupil achievement data, required for the interim and final reports to the Legislature ~~regarding the program pursuant to~~ as required by Education Code sections 99237.5 and 99240; and

(c)~~(e) the local educational agency~~ **I**~~i~~t will retain all records related to the professional development provided to participants in the ~~Mathematics and Reading Professional Development P~~program for no less than five years, and that these records will ~~shall~~ include, but not be limited to:

(1) **T**~~t~~he number of hours of training attended;

(2) **A**~~a~~ttendance records;

(3) **S**~~s~~ubject ~~the~~ content;

(4) the dates of each training session ~~professional development~~ taken by teachers, instructional aides, and paraprofessionals; and

(5) **T**~~t~~he name/s of the providers.~~;~~

~~(f) The local education agency shall retain professional development attendance records for teachers, instructional aides, and paraprofessionals for funding and audit purposes; the local education agency shall obtain participant attendance signature verification no less than three times during each full day of training and no less than two times during each partial day of training; and these records shall be available for inspection.~~

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections ~~60605,~~ 99233, 99234, 99237, 99237.5 and 99240, Education Code.

Renumber 11986 to 11982.5

§~~11986~~11982.5. ~~Eligible~~ Local Educational Agencies as a Consortium.

For purposes of the Mathematics and Reading Professional Development Program, a county office of education may coordinate a consortium of school districts that functions as a single ~~local educational agency~~ LEA.

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections ~~44579.5,~~ 99231, 99237~~(e)~~ **and 99237.5**, Education Code.

§11983. Instructional Materials.

(a) Instructional materials used by ~~local educational agencies~~ **an** LEA~~s~~ for courses usually taught in grades kindergarten through 8, including algebra, must be adopted by the ~~State Board of Education~~ SBE unless otherwise authorized by the ~~State Board of Education~~ SBE.

Non-adopted instructional materials are occasionally authorized for purchase and use by districts pursuant to the general waiver authority under Education Code sections 33050-33053 or the petition process under the authority of Education Code section 60200(g). Instructional materials used by ~~local educational agencies~~ **an** LEA~~s~~ for courses usually taught in grades 9 through 12, including algebra II and geometry, must be adopted by the governing board of the LEA ~~local educational agency~~.

(b) ~~Local educational agencies~~ **An** LEA~~s~~ participating in the Mathematics and Reading Professional Development Program must provide each pupil with **currently adopted** instructional materials that are aligned to the state content standards in mathematics ~~**by February 2002, if not piloting, or February 2003, if piloting these materials**~~. ~~Local educational agencies~~ **An** LEA~~s~~ participating in the ~~Mathematics and Reading Professional Development P~~program must provide each pupil with **currently adopted** instructional materials that are aligned to the state content standards in English~~reading~~/language arts ~~**by February 2003, if not piloting, or February 2004, if piloting these materials**~~ in accordance with Education Code section 99237(a)(3)(A) and (B).

NOTE: Authority cited: Section 99236, Education Code. Reference: Section**s** 99237~~(a)(3)(A) and (B)~~ **and 99237.5**, Education Code.

§11983.5. Definition of "Instructional Materials~~...~~Otherwise Authorized by the California State Board of Education."

(a) As used in Education Code section 99231(c), "instructional materials ~~...~~ "otherwise authorized" by the ~~State Board of Education~~ SBE " include~~, and are limited to,~~ basic instructional materials as defined in Education Code section 60010(a) that have been determined to be in alignment with applicable content standards through a petition approved by the SBE after May 1, 2000, pursuant to Education Code section 60200(g).~~:~~

~~(1) A waiver granted by the State Board of Education after October 1, 2000, pursuant to Education Code sections 33050 and 33051, of provisions of the Schiff-Bustamante Standards-Based Instructional Materials Programs Act (Education Code sections 60450 et. seq.), or;~~

~~(2) A petition approved by the State Board of Education after May 1, 2000, pursuant to~~

~~Education Code section 60200(g).~~

(b) In addition, if the instructional materials program used by the l~~ocal educational agency (~~LEA~~)~~ is a basic reading/language arts program (RLA), the instructional materials shall be deemed to be "otherwise authorized" provided the LEA certifies to the ~~California Department of Education~~ CDE ~~on California Department of Education form AB 466 -- Application for Funding, Fiscal Years 2001-02 and 2002-03 (6/2002) or California Department of Education form AB 466 -- Application For Reimbursement Past Training, Fiscal Years 1999-2000, 2000-2001 and 2001-2002 (5/2002),which are incorporated by reference~~, prior to receiving the funding, all of the following:

(1) The instructional materials were purchased by the district prior to the 2002 Reading/Language Arts/English Language Development Adoption (RLA/ELD);

(2) The LEA has in place specially designed instructional materials (component) to address the needs of E**L~~nglish language learners (ELL)~~ pupils** that is comparable to the instructional materials (component) approved and contained in the RLA/ELD programs adopted in January 2002 as approved by the State Board~~Chair of the Curriculum Development and Supplemental Materials Commission or his or her designee~~;

(3) The LEA's specially designed component to address the needs of ~~English learners~~ EL**~~L~~ pupils** has been approved by the ~~State Department of Education~~ CDE for legal and social compliance pursuant to Education Code sections 60040-60048 and the ~~State Board of Education's~~ SBE's "Standards for Evaluating Instructional Materials for Social Content" (2000 Edition) which is incorporated by reference;~~,~~ and~~;~~

(4) The publishers have met all the requirements of Education Code section 60061, as applicable.

NOTE: Authority cited: Section~~s 33031 and~~ 99236, Education Code. Reference: Section 99231~~(c) and 99236~~, Education Code.

§11984. ~~Instructional Aides and Paraprofessionals~~Training Curriculum for the Initial Forty Hours.

~~In determining the maximum funding for training instructional aides and paraprofessionals, the Superintendent of Public Instruction shall use 2000 CBEDS data in 2001-02, and may~~

~~use subsequent years CBEDS data in future years. In the event that the number of instructional aides and paraprofessionals as determined by CBEDS exceeds the maximum number to be served as defined in Education Code Section 99235(a), the Superintendent of Public Instruction shall determine a percentage pro rata reduction and apply it to each district's number of instructional aides and paraprofessionals.~~

Training curriculum for **training ~~the Mathematics and Reading Professional Development Program~~ related to the initial forty hours of instruction described in Education Code section 99237** shall be based on the criteria contained in Education Code section 99237, subdivisions (a) and (b), and the requirements of this section. **The owner of the training curriculum ~~Each training provider~~** shall submit its curriculum **to SBE or its designee** for approval by the SBE and include **~~in its curriculum~~** the following:

(a) Instructional strategies designed to help all pupils gain mastery of the California academic content standards, with special emphasis on EL**~~L~~ pupils** and pupils with exceptional needs;

(b) A thorough review of the curriculum framework and academic content standards related to teaching mathematics or reading/language arts;

(c) Current and confirmed s~~S~~cientific~~ally based~~ research findings related to the instructional practices for mathematics or reading/language arts;

(d) Readings and discussions of other pertinent materials which address the value of the diagnostic nature of standardized tests, the Standardized Testing and Reporting (STAR) system, and the California High School Exit Exam **(CAHSEE)**; and

(e) A thorough review of the adopted standards-based instructional materials program, which emphasizes the following:

(1) The material that is taught during the first six to eight weeks of instruction; and

(2) Instructional strategies that use the universal access and English language development (ELD) components of the program so that teachers will know and understand when and how to use them according to the instructional needs of all students.

NOTE ~~Note~~: Authority cited: Section 99236, Education Code. Reference: Section 99237~~99235(a)~~, Education Code.

Renumber 11985 to 11984.5

§~~11985~~11984.5. Curriculum Review of the Initial Forty Hours.

(a) Each training **~~provider's~~** curriculum **for training related to the initial forty hours of instruction described in Education Code section 99237** shall undergo a formal review process **before being approved by the SBE ~~to determine if it meets the conditions pursuant to section 11984 for the Mathematics and Reading Professional Development program.~~ The review shall be based on Education Code section 99237, subdivisions (a)(2), (a)(4), and (b), California Code of Regulations, title 5, section 11984, and subdivision (c) of this section.**

(b)The formal review process shall include a review panel consisting of **~~at least two qualified reviewers~~** two~~one~~ **or more reviewers designated by the SBE and acting under its direction.** To be a qualified reviewer, a reviewer shall have knowledge of information related to mathematics or reading, as applicable, including**:**

(1) A~~a~~cademic content standards~~,~~;

(2) C~~c~~urriculum frameworks~~,~~;

(3) I~~i~~nstructional and teaching strategies included in the **SBE adopted and standards-aligned core and ancillary** instructional materials,;

(4) C~~c~~urrent and confirmed scientific research~~,~~; **and**

(5) ~~Aassessment~~ L~~l~~inkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, the California English Language Development Test (CELDT), and CAHSEE for diagnostic information related to all pupils~~to curriculum, and instructional core and ancillary materials that are approved by the SBE and standards-aligned~~.

~~**(c) The review shall be based on Education Code section 99237, subdivisions (a)(4) and (b), California Code of Regulations, title 5, section 11984, and subdivision (d) of this section.**~~

(c)~~(d)~~ The review panel shall review each training ~~provider's~~ curriculum submission for its ability to produce the following learning outcomes for participants:

(1) **K~~k~~**nowledge of grade level mathematics standards or English~~reading~~/language arts standards, including the ability to effectively teach such standards;

(2) **K~~k~~**nowledge and understanding of how standards are supported through the

curriculum~~ar~~ frameworks in regard to differentiating instruction through universal access and teaching ~~various~~ instructional strategies related to mathematics or reading/language arts;

(3) **K**~~k~~nowledge and understanding of current and confirmed scientific research and various technology resources with regard to teaching mathematics or reading/language arts;

(4) **K**~~k~~nowledge and understanding of the components of the STAR program and how student results impact and inform instruction;

(5) **F**~~f~~amiliarity with key reference materials included in the instructional materials;

(6) **K**~~k~~nowledge and understanding of the use of daily lesson guides;

(7) **K**~~k~~nowledge and understanding of how to teach all key instructional components;

(8) **F**~~f~~amiliarity with effective use of additional program support materials for all pupils, including but not limited to accelerated and advanced learners, EL~~L~~ **pupils** and pupils with exceptional needs; and

(9) **K**~~k~~nowledge and understanding of how to analyze assessments included in the instructional materials for more effective instruction.

(d) If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings**, the review panel shall recommend approval of the curriculum to the SBE.**

(e) If the review panel determines that the prospective provider's ~~training~~ **curriculum does not meet the requirements** ~~referenced~~ of~~in~~ **this section** based on documented findings**, the review panel shall** confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved~~ either, in its discretion, recommend to the SBE disapproval of the curriculum or confer with the owner of the curriculum to correct deficiencies. Prior to making a recommendation to the SBE, the review panel may confer with the owner of the curriculum on as many occasions as the review panel deems productive. Thereafter, the review panel shall recommend to the SBE either approval or disapproval of the curriculum.~~

(f) In addition to any other lawful consideration, the SBE may base its approval or

disapproval of a training curriculum upon any of the items referenced in this section or the recommendation of the review panel.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237, Education Code.

Renumber 11986 to11984.6

§~~11986~~11984.6. Training Providers of the Initial Forty Hours.

(a) ~~In addition to submitting curriculum pursuant to section 11984,~~ E~~e~~ach **prospective** training provider **~~of the Mathematics and Reading Professional Development Program~~ who seeks to provide training related to the initial forty hours of instruction described in Education Code section 99237** shall **~~also~~** submit a written proposal to the **SBE~~CDE~~ or its designee** that includes the following:

(1)~~(a)~~ A complete, annotated, and scripted instructor's training curriculum notebook or manual which includes a timed agenda, all of the overheads or Power Point presentations used by the provider and instructor, and **~~citations for~~** all materials to be included for each grade level or program/course level;

(2) A statement describing whether the training curriculum described in subdivision (a)(1) is either:

(A) Owned by the prospective provider; or

(B) Being used with the express written consent of the party that owns it.

(3) A statement identifying whether the training curriculum described in subdivision (a)(1) has already been approved by the SBE and, if so, the date of the SBE meeting;

(4)~~(b)~~ A provision that each attendee will be provided with a participant notebook or manual with required readings;

(5)~~(c)~~ A provision that a complete set of adopted grade level or program or course level materials, including both teacher and student as well as electronic components, will be available at each training session;

(6)~~(d)~~ A provision that participants will have an opportunity to make up the minimum time requirements of the training by providing the LEA with the provider's web page and/or training calendar, when available;

(7)~~(e)~~ A description of the training delivery methods, table and room set-up, and classroom structures that support adult learning theory and optimal learning;

(8)~~(f)~~ A descriptive breakdown of instructional time as follows:

(A)~~(1)~~ Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components, including universal access components;

(B)~~(2)~~ Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that ensure all pupils master the academic content standards, with emphasis on EL~~L~~ **pupils** and pupils with exceptional needs; and

(C)~~(3)~~ Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning.

(9)~~(g)~~ A provision that **the ratio of participants to instructor(s) will not exceed 35 to 1; ~~a second instructor will be available when class size exceeds 35~~**;

(10)~~(h)~~ An estimate of the number of authorized instructors to deliver training over the next five years;

(11)~~(i)~~ A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training;

(12)~~(j)~~ A description of whether it plans to offer alternative training formats or delivery models to small, remote, or rural LEAs, including the option of webcast training;

(13)~~(k)~~ Evidence of the **prospective** provider's experience and qualifications to deliver its training curriculum, which may include evaluation data from past trainings and information demonstrating knowledge of **~~Reading First,~~ state and federal programs, sanction and intervention processes**, s~~S~~pecial e~~E~~ducation~~,~~ **and** EL~~L~~ **pupils**, and assessment literacy;

(14)~~(l)~~ Documentation of each lead instructor's experience and qualifications to deliver training;

(15)~~(m)~~ A description of its instructor selection and training process, including but not limited to how instructors are selected and trained to deliver its curriculum;

(16)~~(n)~~ A provision that attendance data will be collected and provided to the LEA,

including the number of teachers, by credential type, who have received training on its curriculum;

(17)~~(o)~~ A provision that when major updates or revisions occur with curriculum, **the prospective provider will not use the new material until after the material has been ~~the most current copy will be~~** submitted **~~to the CDE~~** for review **~~for program assurances~~** pursuant to sections 11984 and **11984.5 ~~11985~~ and approved by the SBE**; and

(18)~~(p)~~ A provision that it has read and will comply with the Mathematics and Reading Professional Development Program regulations found in California Code of Regulations, title 5, sections 11980 through **11985.6 ~~11986~~**, as applicable.

(b) **Each prospective training provider's written proposal shall undergo review by a review panel consisting of** two**~~one~~ or more reviewers designated by the SBE and acting under its direction. The review panel shall evaluate whether the prospective provider's written proposal contains each of the items identified in subdivision (a) and whether the written proposal demonstrates the prospective provider's ability to effectively deliver training. To be a qualified reviewer, a reviewer shall have knowledge of information related to mathematics or reading, as applicable, including:**

(1) Academic content standards;

(2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed **scientific research; and**

(5) Assessment linkage to curriculum.

(c) If the review panel determines that the prospective provider's written proposal satisfies the requirements of this section based on documented findings**, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.**

(d) If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings**, the review panel shall** confer with prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the

review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, ~~in its discretion, either recommend to the SBE that the prospective provider not be approved as a provider or confer with the prospective provider to correct deficiencies. Prior to making a recommendation to the SBE, the review panel may confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter,~~ **the review panel shall recommend to the SBE** ~~either~~ **that the prospective provider be approved** ~~or disapproved~~ **as a provider.**

(e) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a prospective provider upon any of the items listed in this section or the recommendation of the review panel.

(f) A provider approved by the SBE pursuant to this section is only authorized to provide training using the training curriculum it submitted pursuant to subdivision (a).

NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99237 and 99240, Education Code.

New §11985

§11985. Training Curriculum for English Learner Professional Development.

Training curriculum related to the EL professional development described in Education Code section 99237.5 shall be based on the criteria contained in Education Code section 99237.5, subdivisions (a) and (b), and the requirements of this section. The owner of the training curriculum shall submit its curriculum to SBE or its designee for approval by the SBE and include the following:

(a) Foundational knowledge specifically designed to assist EL pupils to attain a high level of English language proficiency and mastery of the California mathematics and English/language arts academic content standards~~,~~ ~~while gaining mastery of the California academic content standards across the curriculum,~~ **that emphasizes the following:**

(1) Instructional strategies using SBE adopted instructional materials for kindergarten through grade eight, standards-aligned instructional materials for grades nine through twelve, and c~~C~~ertified s~~S~~upplemental m~~M~~aterials for English l~~L~~earners to

assist teachers in understanding when and how to use them to address~~according to~~ **the instructional needs of all EL pupils;**

(2) A thorough review of the specific sections of the **curriculum frameworks**~~,~~ that pertain to EL pupils, **academic content standards, and ELD standards** ~~relevant to instructing EL pupils~~**;**

(3) Current and confirmed s~~S~~cientific~~ally based~~ **research related to the instructional practices for EL pupils;**

(4) Readings and discussions of other pertinent materials related to the language and literacy of **EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system,** the CELDT, curriculum-embedded assessments, **and the CAHSEE; and**

(5) Essential components of a comprehensive program of ELD that include~~s~~ actively developing all domains of language, addressing various levels of English proficiency and academic English while~~fluency, and~~ **creating a supportive learning environment for language learning.**

(b) ELD instruction designed to meet the language and **academic instructional needs of EL pupils**~~,~~ that~~which~~ **emphasizes the following:**

(1) Effective use of the ELD components of the SBE adopted instructional materials for kindergarten through grade eight specifically designed to help teachers of EL pupils understand ELD content;

(2) Current and confirmed s~~S~~cientific~~ally based~~ **research findings related to the instructional practices for second language learning;**

(3) A thorough understanding of different levels of English language proficiency and how to plan instruction for each level;

(4) The planning of ELD instruction to effectively and efficiently use ELD s~~S~~tandards and c~~C~~**ertified s~~S~~upplemental m~~M~~aterials for English l~~L~~earners as tools for ELD instruction; and**

(5) Development of vocabulary and language structures for purposeful oral and written communication that emphasizes structured opportunities for practice.

(c) Reading/language arts and content area instruction to help teachers of EL pupils understand and apply knowledge of linguistic structures to SBE adopted instructional materials for kindergarten through grade eight, standards-aligned instructional materials for grades nine through twelve, and c~~C~~ertified s~~S~~upplemental m~~M~~aterials for English l~~L~~earners~~.~~

~~(d)Reading/language arts and content area instruction~~ **that emphasizes the following:**

(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, **vocabulary development, and writing development;**

(2) A thorough review and analysis of linguistic features;

(3) Contrastive analysis that leads to understanding the transfer of skills and concepts from one language to another;

~~(4) Effective comprehension and instructional strategies to teach essential content;~~

(4)~~(5)~~ **Text and lesson analysis for language and content** demands**; and**

(5)~~(6)~~ **Analysis of second language markers in oral and written language production to inform** ~~and design~~ **instruction.**

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237.5, Education Code.

New §11985.5

§11985.5. Curriculum Review of English Learner Professional Development.

(a) Each training curriculum for training pursuant to Education Code section 99327.5 shall undergo a formal review process before being approved by the SBE. The review shall be based on Education Code section 99237.5, subdivisions (a)(4) and (b), California Code of Regulations, title 5, section 11985, and subdivision (c) of this section.

(b) The formal review process shall include a review panel consisting of two~~one~~ **or more reviewers designated by the SBE and acting under its direction. To be a qualified reviewer, a reviewer shall have experience teaching EL pupils and have knowledge of information related to mathematics or reading, as applicable, including:**

(1) Academic content standards and ELD standards;

(2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed **scientific research and current** and confirmed **scientific research related to EL pupils;**

(5) Certified s**~~S~~upplemental** m**~~M~~aterials for English** l**~~L~~earners; and**

(6) Linkage between ~~Assessment linkage to~~ **curriculum** and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils~~, including but not limited to the California English Language Development Test (CELDT).~~

(c) The review panel shall review each training curriculum submission for its ability to produce the following learning outcomes for participants:

(1) Knowledge and understanding of the language and content~~cognitive and linguistic~~ **demands required for EL pupils to access grade level appropriate** academic **content standards** and ELD standards**;**

(2) Knowledge and understanding of how standards are supported through the curriculum~~ar~~ **frameworks in regard to differentiating instruction through universal access** ~~and teaching various instructional strategies~~ **related to mathematics or reading/language arts for EL pupils;**

(3) Knowledge and understanding of current and confirmed scientific **EL research with regard to teaching mathematics or reading/language arts** and ELD, including how to apply this research to classroom practice in order to increase student learning and language acquisition**;**

(4) Knowledge and understanding of how to analyze and use data from multiple measures, including the components of the STAR program, CELDT, and curriculum-embedded assessments **and how student results impact and inform instruction for EL pupils;**

~~(5) Knowledge and understanding of how to apply second language learning research to classroom practice in order to increase student learning and language acquisition;~~

(5)~~(6)~~ **Knowledge and understanding of how to plan and teach ELD and monitor student progress at each level of English proficiency;**

(6)~~(7)~~ **Knowledge and understanding of how to teach** the ELD~~all key instructional~~ **components of the SBE adopted instructional materials for kindergarten through grade eight**~~,~~ or **standards-aligned instructional materials for grades nine through twelve**~~, and Certified Supplemental Materials for English Learners~~**;**

(7)~~(8)~~ **Demonstrate the ability to** effectively and efficiently **teach content standards** ~~**to mastery**~~ **using ELD standards and methodology to scaffold;**

(8)~~(9)~~ **Knowledge and understanding of oral language development**, vocabulary development, and writing development**;**

(9)~~(10)~~ **Knowledge and understanding of** effective **comprehension and instructional strategies** to teach content **through text and lesson**~~s~~ analysis **that support EL pupils in language development; and**

(10)~~(11)~~ **Knowledge and understanding of** early intervention techniques for pupils experiencing difficulty~~identification of students who need early intervention~~**.**

(d) If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings**, the review panel shall recommend approval of the curriculum to the SBE.**

(e) If the review panel determines that the prospective provider's ~~training~~ **curriculum does not meet the requirements** ~~referenced in~~ of **this section** based on documented findings**, the review panel shall** confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved.~~either, in its discretion, recommend to the SBE disapproval of the curriculum or confer with the owner of the curriculum to correct deficiencies. Prior to making a recommendation to the SBE, the review panel may confer with the owner of the curriculum on as many occasions as the review panel deems productive. Thereafter, the review panel shall~~

~~recommend to the SBE either approval or disapproval of the curriculum.~~

(f) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a training curriculum upon any of the items referenced in this section or the recommendation of the review panel.

NOTE: Authority cited: Section 99236, Education Code. Reference: Section 99237.5, Education Code.

New §11985.6

§11985.6. Training Providers of English Learner Professional Development.

(a) Each prospective training provider who seeks to provide training pursuant to Education Code section 99237.5 shall submit a written proposal to the SBE or its designee that includes the following:

(1) A complete, annotated, and scripted instructor's training curriculum notebook or manual which includes a timed agenda, all of the overheads or Power Point presentations used by the provider and instructor, and all materials to be included for each grade level, grade span, or program/course level;

(2) A statement describing whether the training curriculum described in subdivision (a)(1) is either:

(A) Owned by the prospective provider; or

(B) Being used with the express written consent of the party that owns it.

(3) A statement identifying whether the training curriculum described in subdivision (a)(1) has already been approved by the SBE and, if so, the date of the SBE meeting;

(4) A provision that each attendee will be provided with a participant notebook or manual with required readings;

(5) A provision that participants will have an opportunity to make up the minimum time requirements of the training by providing the LEA with the provider's web page and/or training calendar, when available;

(6) A description of the training delivery methods, table and room set-up, and classroom structures that support adult learning theory and optimal learning;

(7) A description of how the training design will equip participants with the

necessary skills and knowledge to be fully prepared to use their standards-based SBE adopted instructional materials or standards-aligned instructional materials to teach EL pupils at their academic and language proficiency levels;

(8) A descriptive breakdown of instructional time as follows:

(A) Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction~~EL theoretical framework, research, and academic content standards while using ELD standards to deliver instruction~~**;**

(B) Forty~~Thirty~~ **percent for demonstrations and modeling of** key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards, ELD standards, and academic language proficiency~~instructional strategies that ensure all pupils master the academic content standards, ELD standards, use of academic language, through differentiated instruction based on English language proficiency~~**; and**

(C) Thirty~~Forty~~ **percent for practice, planning instruction based upon data and student work, small and large group discussion, and other participant activities to reinforce learning.**

(9) A provision that the ratio of participants to instructor(s) does not exceed 35 to 1;

(10) An estimate of the number of authorized instructors to deliver training over the next five years;

(11) A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training;

(12) A description of whether it plans to offer alternative training formats or delivery models to small, remote, or rural LEAs, including the option of webcast training;

(13) Evidence of the prospective provider's experience and qualifications to deliver its training curriculum, which may include:

(A) Evaluation data from past trainings;

(B) Information demonstrating knowledge of state and federal programs, including sanction and intervention processes, and how they support and relate to EL academic achievement;

(C) Knowledge of standards-based SBE adopted instructional materials or standards-aligned instructional materials; and

(D) Knowledge of c~~C~~ertified s~~S~~upplemental m~~M~~aterials for English l~~L~~earners adopted pursuant to the Budget Act of 2004 and pursuant to Chapter 79 of the Statutes of 2006.

(14) Documentation of each lead instructor's experience and qualifications to deliver EL training;

(15) A description of its instructor selection and training process, including but not limited to how instructors are selected and trained to deliver its curriculum;

(16) A provision that attendance data will be collected and provided to the LEA, including the number of teachers, by credential type, who have received training on its curriculum;

(17) A provision that when major updates or revisions occur with curriculum, the prospective provider will not use the new materials until after the material has been submitted for review pursuant to sections 11985 and 11985.5 and approved by the SBE; and

(18) A provision that it has read and will comply with the Mathematics and Reading Professional Development Program regulations found in California Code of Regulations, title 5, sections 11980 through 11985.6, as applicable.

(b) Each prospective training provider's written proposal shall undergo review by a review panel consisting of two~~one~~ or more reviewers designated by the SBE and acting under its direction. The review panel shall evaluate whether the prospective provider's written proposal contains each of the items identified in subdivision (a) and whether the written proposal demonstrates the prospective provider's ability to effectively deliver training. To be a qualified reviewer, a reviewer shall have experience teaching

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EL pupils and have knowledge and information related to mathematics or reading, as applicable, including:

(1) Academic content standards and ELD standards;

(2) Curriculum frameworks;

(3) Instructional and teaching strategies included in the SBE adopted and standards-aligned core and ancillary instructional materials;

(4) Current and confirmed **scientific research and current** and confirmed **scientific research related to EL pupils;**

(5) Certified s**~~S~~upplemental** m**~~M~~aterials for English l~~L~~earners; and**

(6) Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils~~Assessment linkage to curriculum, including but not limited to the CELDT~~**.**

(c) If the review panel determines that the prospective provider's written proposal satisfies the requirements of this section based on documented findings**, the review panel shall recommend to the SBE that the prospective provider be approved as a provider.**

(d) If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings**, the review panel shall~~,~~** confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider~~, in its discretion, either recommend to the SBE that the prospective provider not be approved as a provider or confer with the prospective provider to correct deficiencies. Prior to making a recommendation to the SBE, the review panel may confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, the review panel shall recommend to the SBE either that the prospective provider be approved or disapproved as a provider.~~

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(e) In addition to any other lawful consideration, the SBE may base its approval or disapproval of a prospective provider upon any of the items listed in this section or the recommendation of the review panel.

(f) A provider approved by the SBE pursuant to this section is only authorized to provide training using the training curriculum it submitted pursuant to subdivision (a). NOTE: Authority cited: Section 99236, Education Code. Reference: Sections 99237.5 and 99240, Education Code.

06-22-07 [California Department of Education]

FINAL STATEMENT OF REASONS
Mathematics and Reading Professional Development (MRPD) Program

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed regulations specify the addition of new training requirements included in Senate Bill (SB) 472 and the State Board of Education (SBE) approved (November, 2006) *Guidelines and Criteria for Training Curriculum*.

The 45-day public comment period began on January 20, 2006 and ended at 5:00 p.m. on March 16, 2007. No written comments were received. A public hearing was held on March 16, 2007, at 10:00 a.m. One individual appeared but did not provide oral or written comments.

The SBE determined that additional changes to the regulations were needed primarily to address recommendations from the SB 472 English Learner Professional Development Advisory Committee. In December 2006, the State Superintendent of Public Instruction appointed members to the committee. The committee convened and made recommendations for the English learner part of the Mathematics and Reading Professional Development (MRPD) program. Most of the changes included in the amended regulations are due to the committee's recommendations. In addition to miscellaneous clarifications, specific purposes of the proposed amendments are: (1) to include the recommendations for the guidelines and criteria for training curriculum of English learners; (2) to include recommendations for the guidelines and criteria for English learner training providers, (3) to include recommendations for implementation of the English learner part of the MRPD program; (4) to clarify funding as to the 80 hours of follow up professional development, including English learner professional development, and (5) to clarify the review process for training curriculum and training providers related to the initial forty hours of training and English learner training.

A first 15-day comment period commenced from May 11, 2007 to May 25, 2007, inclusive. A second 15-day comment period related to documents relied upon commenced from June 7, 2007, to June 21, 2007, inclusive. A third 15-day comment period commenced from July __, 2007, to July __, 2007, inclusive.

Before discussing the public comments received and the attendant additional changes to the regulations, the SBE provides the following updates regarding the overall structure of the regulations and the initial changes made for the first comment period.

Section 11981.[1] Funding Allocation for Program Training Pursuant to Education Code Section 99237.

This section is amended to clarify its application to funding pursuant to Education Code section 99237, as opposed to Education Code section 99237.5.

[1] All section references are to the California Code of Regulations, title 5, unless otherwise stated.

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Section 11981.3. Funding Allocation for Teachers of English Learners.

This section is added to address funding allocation for professional development of teachers who teach English learner pupils.

Section 11983. Instructional Materials.

This section is amended to ensure pupils are provided with currently adopted instructional materials.

Section11984. Training Curriculum for the Initial Forty Hours.

This section is amended to clarify its application to training curriculum developed for training pursuant to Education Code section 99237, as opposed to Education Code section 99237.5.

Section 11984.5. Curriculum Review of the Initial Forty Hours.

The information contained in this new section number borrows from what had been proposed, in large measure, under a different section number and clarifies that it applies to a curriculum review for training curriculum developed pursuant to Education Code section 99237, as opposed to Education Code section 99237.5. The section also clarifies the review process and makes explicit that the SBE may base its approval or disapproval of a training curriculum on the items referenced in the section or the recommendation of the review panel.

Section 11984.6. Training Providers of the Initial Forty Hours.

The information contained in this new section number borrows from what had been proposed, in large measure, under a different section number and clarifies that it applies to a review of a prospective provider pursuant to Education Code section 99237, as opposed to Education Code section 99237.5. The section also clarifies that a review process applies, that the SBE may base its approval or disapproval of a training provider on the items referenced in the section or the recommendation of the review panel, and that an approved provider may only use specified curriculum.

Section 11985. Training Curriculum for English Learner Professional Development.

This section is substantially similar to section 11984, except that it applies to training curriculum developed for training pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.

Section 11985.5. Curriculum Review of English Learner Professional Development.

This section is substantially similar to section 11984.5, except that it applies to curriculum review for training pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.

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Section 11985.6. Training Providers of English Learner Professional Development.

This section is substantially similar to section 11984.6 except that it applies to the approval of training providers pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.

COMMENTS RECEIVED DURING THE PERIOD THE FIRST 15-DAY NOTICE AND PROPOSED REGULATION TEXT WAS AVAILABLE TO THE PUBLIC

The modified text was made available to the public from May 11, 2007 through May 25, 2007, inclusive. The following comments were received:

Aida Molina, Executive Director, Instructional Services Bakersfield City School District and in an e-mail dated May 25, 2007, submitted the following two comments:

Comment #1: Regarding Section 11985, page 16, line 16, it mentions "scientifically based research." What specific research is this bill referring too? The linguistic and language acquisition research is very broad and spans a variety of theories, approaches, and biases about language.

Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

Comment #2: Regarding Section 11985.6, page 20, line 26 it states, "Thirty-percent for presentation and direct instruction of EL theoretical framework, research, and academic content standards while using the ELD standards to deliver instruction." Which EL theoretical framework? It is clear that the authors have a picture of what needs to happen in this training but I am unclear how this should be executed and implemented. From the text, I am also unsure what the content of the training will be and what my teachers will receive as participants. Furthermore, I need to know what the theoretical bias will be. As an administrator, I need to know what they will bring back to the classroom and how that will transfer to achievement.

Response: Section 11985.6 (a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

Martha Hernandez, President, California Association for Bilingual Education (CABE), in a fax dated May 25, 2007, submitted the following ten comments:

Comment #1: Regarding Section 11985.6, page 18, line 32, SB472 was amended to specifically include, among other provisions, professional development for teachers instructing students who are English language learners (ELL), within the 40 of the

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80 follow up-hours. It is critical, therefore, that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted: "(a) Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners".

Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English learner professional development providers. The criteria and provisions included in sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Comment #2: Regarding Section 11985.5(b), it is recommended that a call for the establishment of a review panel to be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. Concern was expressed that the panels should be comprised of more than two people.

Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

Comment #3: Regarding Sections 11985.6(b), it is unclear as to whether a committee was established to advise the State Superintendent on SB 472. Perhaps this advisory committee can be used instead of the review panels. Using the SB 472 advisory committee would save time and money specific to this process. More importantly, it would provide "reviewers" that are qualified, experienced and with expertise specific to professional development and training curriculum specific to ELL students. It is recommended that the SBE utilize the SB 472 advisory committee instead of the review panels.

Response: Education Code section 99237.5(h) required the State Superintendent of Public Instruction (SSPI) to appoint an advisory committee for the purpose of making recommendations, including, but not limited to, all of the following: training criteria, training providers, implementation of the program, and whether or not this type of training to teachers of English learners in other subjects besides reading and mathematics is appropriate. The Advisory Committee met on four separate

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occasions and provided recommendations to the SSPI. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the English Learner Professional Development (ELPD) review panel, other qualified individuals will also be appointed to function in this capacity.

Comment #4: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."

Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

Comment #5: Regarding Section 11985(b), page 16, line 25, the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following...."

Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."

Comment #6: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development"

Response: This recommendation is accepted as is. Section 11985(d)(1)is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."

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Comment #7: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."

Response: This recommendation is accepted. Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice in order to increase student learning and language acquisition."

Comment #8: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.

Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered as Section 11985.5(c)(6) and will not be deleted. However, it is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve[.]"

Comment #9: Regarding Section 11985.5(e), page 19, line 24, and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider

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to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."

Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

Comment #10: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is suggested to delete the words "may include" and insert "including." Requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students.

Response: The criteria and provisions included in Sections 11984 through 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Laurie Olsen, Executive Director, California Tomorrow, in a fax dated May 25, 2007, submitted the following six comments:

Comment #1: Regarding Section 11985.6, page 18, line 32, it is essential that providers of professional development under this program have expertise related to meeting the needs of English Learners. We recommend adding a requirement that providers demonstrate evidence of having provided English Learner professional development that addresses the specific language needs (overcoming the language barrier to access, and the development of academic language in all four domains) of English Learners.

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Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers must possess to be considered as SB 472 English learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Comment #2: Whatever panel is established to review the providers and curriculum must similarly include deep expertise on English Learners. We recommend perhaps using the existing SB 472 Advisory Committee for this purpose.

Response: Education Code section 99237.5(h) required the State Superintendent of Public Instruction (SSPI) to appoint an advisory committee for the purpose of making recommendations, including, but not limited to, all of the following: training criteria, training providers, implementation of the program, and whether or not this type of training to teachers of English learners in other subjects besides reading and mathematics is appropriate. The Advisory Committee met on four separate occasions and provided recommendations to the SSPI. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.

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Comment #3: Regarding Section 11985(b), page 16, line 25, in order to ensure that the language challenges facing English Learners are addressed adequately, it is recommended this section is revised to read: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."

Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."

Comment #4: Regarding Section 11985(d)(1), page 17, line 13, it is recommended that this section be revised to read: "(1) Knowledge of reading/language arts instruction to support - EL pupils in oral language development, vocabulary development and writing development."

Response: This recommendation is accepted as is. Section 11985(d)(1) is renumbered to Section 11985(c)(1) and is revised as follows: "(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."

Comment #5: Regarding Section 11985.5(e), page 19, line 24, and 11985.6(d), page 23, line 3, for clarity and credibility, it is important that SBE make public reasons for disapproval of any curriculum. Insert language in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum.

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Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."

Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

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Comment #6: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is recommended to delete the words "may include" and insert "including."

Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Guillermo Gomez, Elementary Content Expert, LAUSD-District Reading Programs, in an e-mail dated May 25, 2007, submitted the following five comments:

Comment #1: Regarding Section 11983.5, page 9, line 7, the specially designed instructional materials must be from the core instruction. I hope we are not allowing supplementary materials to supplant instruction; this would take us farther away from our intended goals, when we do not use standards-based materials.

Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.

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Comment #2: Regarding Section 11985, page 16, line 15, it is recommended to remove the word "relevant" from this line. If we are only to train relevant standards, I would like to know which standards do not count for children at-risk.

Response: This recommendation is accepted in part. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards;"

Comment #3: Regarding Section 11985, page 17, line 23, it is recommended that the word "design" be removed from this line. We need to pre-teach, scaffold, and nourish the core curriculum through instructional density and repeated exposures. We do not have the luxury of having teachers create new curriculum lessons across subjects. We need to work within existing instructional structures to maximize success for both teachers and students alike.

Response: This recommendation is accepted as is. Section 11985(d)(6) is renumbered to Section 11985(c)(5) and is revised as follows: "Analysis of second language markers in oral and written language production to inform instruction."

Comment #4: Regarding Section 11985.5, page 18, line 22, it is recommended that "various" instructional strategies be stricken, to read scientifically-based instructional strategies. There is a finite number of scientifically-based strategies and we can at least agree on those (example SDAIE instruction), rather than open a buffet line of techniques that have not been subject to researched-based studies.

Response: This recommendation is accepted as is. Section 11985.5(c)(2) is revised as follows: "Knowledge and understanding of how standards are supported through the curriculum frameworks in regard to differentiating instruction through universal access related to mathematics or reading/language arts for EL pupils[.]"

Comment #5: Regarding Section 11985.6, page 20, line 26, what is the EL theoretical framework? This is ambiguous language at best and is a mythical term for experimentation. This Theoretical Framework does not have a linguistically competent track-record for districts or providers to quantify in training. Let us stick to the language of the ELA and Math frameworks, that is difficult enough for trainers and providers to follow and we can maintain our focus on bridging the ELD standards to reach academic benchmarks for children.

Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

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Leslie Schwarze, Novato Unified School District, in an e-mail dated May 25, 2007, submitted the following six comments:

Comment #1: Regarding Section 11983.5(2), page 9, lines 7-11, there should be language here that designates a sunset date considering we are about to go through a new adoption cycle for both math and language arts.

Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.

Comment #2: Regarding Section 11984.5(b), page 11, line 5, 11984.6(b), page 12, line 28, the old language was much better, "one or more" will allow one and that is not acceptable.

Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

Comment #3: Regarding Section 11984.6(11), page 14, lines 1-3, this should also be included in the district application so that it is apparent from the very beginning that someone must be present at the training.

Response: It is anticipated that this recommendation will be taken into consideration when the SB 472 LEA application is revised.

Comment #4: Regarding Section 11985.6(A), page 20, lines 26 and 27, please strike "EL theoretical framework." It is not necessary as this section is written.

Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

Comment #5: Regarding Section 11985.6(A), page 20, line 28, it is recommended that the word "deliver" be changed to "scaffold."

Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

Comment #6: Regarding Section 11985 (New), page 15, lines 30-32, page 16, lines 1-32, and page 17, lines 1-25, regarding training providers and training curriculum need to be consistent with each other. As written they are not. Also, it appears that

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far more than 40 hours will be required to accomplish what is in the new section, 11985. As written it goes beyond the scope of the law.

Response: Sections 11985 and 11985.6 have different criteria. Section 11985 concentrates on the requirements placed upon a training provider (e.g. application) and Section 11985.6 concentrates on the requirements placed upon the training curriculum (e.g. content). Both sections include recommendations submitted by the SB 472 English Learner Professional Development (ELPD) Advisory Committee. The recommendations have been reviewed and are in alignment with SBE policy.

Gabriel Medel, Executive Director, Parents for Unity, in an e-mail dated May 25, 2007, submitted ten comments:

Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELs for teachers instructing these students, within the 40 of the 80 follow up hours. It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. It is recommended that a new subsection (a) be inserted: "(a) Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners".

Response: Education Code section 99237.5(a)(A-D) outlines quality standards each English learner professional development provider must possess. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Comment #2: Regarding Sections 11985.5 (b) and 11985.6(b), it is recommended that a call for the establishment of a review panel to be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose of reviewing and approving the training providers and the training curriculum. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.

Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.

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Comment #3: Regarding Section 11985(a)(4),Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and…."

Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

Comment #4: Regarding Section 11985(b), page 16, line 25, the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."

Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."

Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."

Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."

Comment #6: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."

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Response: This recommendation is accepted. Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice in order to increase student learning and language acquisition."

Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.

Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered to Section 11985.5(c)(6), and it will not be deleted. However, it is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve."

Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."

Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings,

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the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

Comment #9: Regarding Section 11983, page 8, line 9, Education Code section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.

Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."

Comment #10: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is suggested to delete the words "may include" and insert "including." Requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students.

Response: The criteria and provisions included in Sections 11984 through 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Alice R. Furry, Sharon Van Vleck, Beth Rice, Reading Lions Center, in an e-mail dated May 25 2007, submitted fifty-six comments:

Comment #1: Regarding Section 11980, page 1, lines 7-18, we recommend the following: Delete. Teacher Eligibility: reference to "a classroom that is not self-contained," because it is not a requirement of Education Code section 99233(a)(1) or (a)(2).

Response: The reference to "a classroom that is not self-contained" provides eligibility to K-12 teachers that teach in this particular school setting. Section 11980 will not be revised.

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Comment #2: Regarding Section 11983.5, page 9, lines 9-11, we recommend the following: Change: ". . . approved and contained in the K-8 Reading/Language Arts and English Language Development basic and intervention programs adopted in January 2002 as approved by the State Board;" Delete: " by the Chair of the Curriculum…" because the information is inaccurate.

Response: This recommendation is accepted in part. Section 11983.5(b)(2) is revised as follows: "The LEA has in place specially designed instructional materials (components) to address the needs of EL pupils that is comparable to the instructional materials (components) approved and contained in the RLA/ELD programs adopted in January 2002 as approved by the State Board."

Comment #3: Regarding Section 11984.5, page 11, lines 4-5, we recommend the following: Change: "at least two qualified reviewers" because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for a 5-day training; and this was a requirement for AB 466 reviews.

Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

Comment #4: Regarding page 11, line 8 we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.

Response: Section 11984.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading, as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #5: Regarding page 11, line 8, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.

Response: Section 11984.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #6: Regarding page 11, line 12, we recommend the following: Add: "(4) Current and confirmed scientific research as defined in Education Code section 44757.5(j) related to the instructional practices for mathematics or reading/language arts" because it provides Education Code definition of research.

Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

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Comment #7: Regarding page 11, line 13, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.

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Response: This recommendation is accepted in part, and because this section references the initial 40 hour training, Section 11984.5(b)(5) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to all pupils."

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Comment #8: Regarding page 11, line 18, we recommend the following: Add: "(c) The review panel shall review and document findings for each training curriculum . . ." because AB 466 review practice required reviewers to document both recommended and non-recommended curriculum trainings for record of citations given for Reviewers' decision.

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Comment #10: Regarding section 11984.5, page 12, line 8, we recommend the following: Add: "(d) . . . referenced in this section based on documented findings, the review panel . . ." because it needs to record the reviewers' citations given for decision.

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Comment #11: Regarding page 12, line 10e, we recommend the following: Change/Add: "(e) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because AB 466 review practice followed this procedure and it worked well.

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Comment #12: Regarding page 12, lines 11-17, we recommend the following: Delete these lines for the wording from comment #11.

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Comment #17: Regarding page 15, line 10, we recommend the following: Change/Insert language from page 12, line 8: "(c) . . . referenced in this section based on documented findings, the review panel . . ." because the review needs to include and record the reviewers' citations given for decision.

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Comment #18: Regarding page 15, line 12d, we recommend the following: Change/Insert new language from page 12, lines 10e: (d) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because AB 466 review practice followed this procedure and it worked well.

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Comment #19: Regarding page 15, line 13-20, we recommend the following: Delete and use new language from Comment #18.

Comment #43: Regarding page 19, line 15, we recommend the following: Change/Insert language from page 12, line 8: "(c) . . . referenced in this section based on documented findings, the review panel . . ." because the review needs to record the reviewers' citations given for decision.

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Comment #44: Regarding page 19, lines 18-24, we recommend the following: Change/Insert language from page 12, lines 10f: (d) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission." Delete Lines 18-14 with replaced noted above because needs to record the reviewers' citations given for decision.

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Comment #54: Regarding page 22, lines 24-26, we recommend the following: Change/Add: "If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings, the review panel shall recommend approval of the curriculum to the SBE."

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Comment #55: Regarding page 22, lines 27-32, we recommend the following: Change/Add: If the panel determines that the training curriculum does not meet the requirements referenced in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because it provides consistency with other sections (e.g., p.12, lines 10-17 that were modified) of the Administrative Regulations.

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Comment #56: Regarding page 23, lines 1-3, we recommend the following: Delete: reference the change in Comment #55.

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Response to Comments #8, 10, 11, 12, 17, 18, 19, 43, 44, 54, 55, and 56: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."

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Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as

many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

Comment #9: Regarding page 11, line 20, we recommend the following: Delete: "reading" Add: "English" because it provides the correct title of the English-Language Arts Content Standards.

Response: This recommendation is accepted as is. Reading/Language Arts Content Standards shall be replaced with "English-Language Arts Content Standards" throughout the Administrative Regulations.

Comment #13: Regarding section 11984.6, page 13, lines 27-28, we recommend the following: Change/Insert page 21, lines 1-3: "(C) Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning" because it provides additional clarification and consist statements throughout these Administrative regulations.

Response: This recommendation is accepted as is. Section 11984.6(a)(8)(C) is revised as follows: "Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning."

Comment #14: Regarding page 14, line 28, we recommend the following: Change: "consisting of at least two qualified reviewers . . ." because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.

Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

Comment #15: Regarding page 15, line 3, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of consistently throughout these Administrative Regulations.

Response: Section 11984.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #16: Regarding page 15, line 4, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.

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Response: Section 11984.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #20: Regarding section 11985, page 16, line 6-7, we recommend the following: Change: "a high level of English language proficiency and mastery of the California mathematics and English/language arts content standards that emphasize…" and delete "across the curriculum" because it provides clarity of what content standards; no Education Code provision in 99237.5 for "across the curriculum."

Response: This recommendation is accepted. Section 11985(a) is revised as follows: "Foundational knowledge specifically designed to assist EL pupils to attain a high level of English language proficiency and mastery of the California mathematics and English/language arts academic content standards, that emphasizes the following…."

Comment #21: Regarding page 16, line 11, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.

Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.

Comment #22: Regarding page 16, line 12, we recommend the following: edit: learners because when use as for English learners – capitalization of learner is not required.

Response: Learners was capitalized in this circumstance because it was included as part of the title "Certified Supplemental Materials for English Learners." As this phrase will no longer be capitalized, "learners" will not be capitalized.

Comment #23: Regarding page 16, line 12, we recommend the following: Delete language from "to assist . . . them" and use language from Comment #24.

Response: This recommendation is accepted with modification. Section 11985(a) is revised as follows: "…how to use them to address the instructional needs of all EL pupils[.]"

Comment #24: Regarding page 16, line 13, we recommend the following: Delete "according" Add: "to meet instructional needs of all EL pupils;" because language should be consistent with Education Code 99237.5(a)(4)(C).

Response: Education Code section 99237.5 includes several phrases in reference to this recommendation. Section 11985(a) is revised as follows: "…how to use them to address the instructional needs of all EL pupils[.]"

Comment #25: Regarding page 16, lines 14-15, we recommend the following: Change: "A thorough review of academic content standards and ELD standards relevant to instructing EL pupils; and delete: of the curriculum frameworks because reference to curriculum frameworks is not in Education Code 99237.5(a)(4)(D).

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Response: Although curriculum frameworks are not specifically included in the Education Code section 99237.5, the SB 472 ELPD Advisory Committee recommended that portions of the framework be included in the content of the training. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards[.]"

Comment #26: Regarding page 16, line 16-17, we recommend the following: Change: "Current and confirmed scientific research as defined in Education Code section 44757.5(j) related to instructing EL pupils because it provides Education Code definition of research.

Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

Comment #27: Regarding page 16, lines 19-20, we recommend the following: Add: "standardized tests, curriculum-embedded assessments, the STAR system, CELDT, Just omissions –both need to be included.

Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

Comment #28: Regarding page 16, lines 21-24, we recommend the following: Change: "(5) Components of ELD in state board adopted instructional materials; and delete: "Essential" because it provides the actual language in Education Code section 99237.5(4)(B) and deletes language that is beyond scope of Education Code.

Response: The SB 472 ELPD Advisory Committee strongly recommended this section be included in the content of the training. Section 11985(a)(5) is revised as follows: "Essential components of a comprehensive program of ELD that includes actively developing all domains of language, addressing various levels of English proficiency and academic English, while creating a supportive learning environment for language learning."

Comment #29: Regarding page 16, lines 25-26, we recommend the following: "(b) Instruction designed to meet the academic instructional needs of EL pupils that emphasize the following: Delete: "ELD" because it matches authorizing section 99237.5(a)(1).

Response: Education Code section 99237.5(b)(6)(7)(8) requires that the training include instruction on the elements outlined in Section 11985(b). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement

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based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic, instructional needs of EL pupils…."

Comment #30: Regarding page 16, lines 27-32, we recommend the following: Delete: All (1) – (3) because it attempts to separate learning into two categories: ELD as language study separate from content study.

Response: Training teachers on deepening connections of ELD study with content study will be an emphasis of the new EL professional development. The SB 472 ELPD Advisory Committee strongly recommended this section be included in the content of the training.

Comment #31: Regarding page 17, lines 1-13, we recommend the following: Delete: All (4) – (5) and (c) because it is not the language of Education Code section 99237.5(b)(1)–(8).

Response: Education Code section 99237.5(b)(6)(7)(8) requires the training include instruction on the elements outlined in Section 11985(b)(c). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component.

Comment #32: Regarding page 17, lines 14-23, we recommend the following: Delete: (1) – (6) because it is not the language of Education Code section 99237.5(b)(1)–(8).

Response: Education Code section 99237.5(b)(6)(7)(8) requires the training include instruction on the elements outlined in Section 11985(b)(c). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 EL PD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component.

Comment #33: Regarding page 16, lines 1-23, we recommend the following: Insert the language in Education Code section 99237.5 (c) (1) – (8) because it provides understandable content for training curriculum and matches the authorizing Education Code section.

1. Vocabulary development;
2. Writing development;

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3. Core academic standards and English Language Development Standards;
4. Comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs;
5. Analyzing achievement of English learners to improve pupil performance through the use of multiple measures including state and local pupil assessment instructions and the Standardized Testing and Reporting (STAR) Program;
6. English Language Development targeted to the pupil's English language proficiency level as measured by the California English Language Development Test;
7. Early intervention techniques for pupils experiencing difficulty; and
8. Instructional strategies to teach essential content to address the varied learning needs of English learner pupils, including the different proficiency levels of English language learner pupils as determined by the California English Language Development Test.

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Response: Education Code is generally not to be restated in regulations. The professional development will include legislated requirements under Education Code section 99237.5 and requirements included in Section 11985. Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(a) outlines each element of foundational knowledge component,(b) outlines each element of the ELD component, and (c) outlines each element of the reading/language arts and content area instruction component.

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Comment #34: Regarding 11985.5, page 18, lines 2-3, we recommend the following: Change: "consisting of at least two qualified reviewers . . ." because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.

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Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

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Comment #35: Regarding page 18, line 7, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.

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Response: Section 11985.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #36: Regarding page 18, line 8, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.

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Response: Section 11985.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

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Comment #37: Regarding page 18, line 11, we recommend the following: Add: "(4) Current and confirmed scientific research as defined in Education Code section 44757.5(j)" because it provides Ed. Code definition of research.

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Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

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Comment #38: Regarding page 18, line 13, we recommend the following: Edit: lower case for certified s supplemental materials because it is not an official title.

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Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case.

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Comment #39: Regarding page 18, lines 14-15, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.

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Response: This recommendation is accepted as is. Section 11985.5(b)(6) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils."

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Comment #40: Regarding page 18, lines 18-32, we recommend the following: Delete all (1) – (6) and add language from Education Code 99237.5 (c) (1) – (8) because it provides understandable content for training curriculum and matches the authorizing Education Code section.

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1. Knowledge and understanding of vocabulary development;
2. Knowledge and understanding of writing development;
3. Knowledge and understanding of core academic standards and English Language Development Standards;
4. Knowledge and understanding of comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs;

5. Knowledge and understanding how to analyze achievement of English learners to improve pupil performance through the use of multiple measures including state and local pupil assessment instructions and the Standardized Testing and Reporting (STAR) Program;
6. Knowledge and understanding of English Language Development for targeting instruction at the pupil's English language proficiency level as measured by the California English Language Development Test;
7. Knowledge and understanding of early intervention techniques for pupils experiencing difficulty; and
8. Knowledge and instruction of instructional strategies to teach essential content to address the varied learning needs of English learner pupils, including the different proficiency levels of English language learner pupils as determined by the California English Language Development Test.

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Response: Education Code is generally not to be restated in regulations. The professional development will include legislated requirements under section 99237.5 and requirements included in Section 11985. Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(a) outlines each element of foundational knowledge component,(b) outlines each element of the ELD component, and (c) outlines each element of the reading/language arts and content area instruction component.

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Comment #41: Regarding page 18, line 24, we recommend the following: Add/Modify (3): Knowledge and understanding of current and confirmed scientific research as defined in Education Code 44757.5(j) related to the instructional practices for mathematics or reading/language arts as related to EL pupils because it offers a consistent outcome identified consistently in the Administrative Regulations.

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Response: This recommendation is accepted in part. The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

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Comment #42: Regarding page 19, lines 1-13, we recommend the following: Delete (6) – (11) because it does not match and goes beyond the requirements for training curriculum content authorized in Education Code Sections 99237.5(a)(4)(A)-(D) and 99237.5(b)(1)-(8).

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Response: Section 11985.5, lines 1-13, outlines a part of the requirements to be a qualified review of the EL professional development. The SB 472 ELPD Advisory Committee strongly recommended the requirements included in this section.

Comment #45: Regarding Section 11985.6, page 20, lines 26-28, we recommend the following: Change: "(A) Thirty percent for presentation and direct instruction on current and confirmed research as defined by Education Code 44757.5(j), mathematics and English/language arts content standards and ELD Standards, and state board adopted K-8 or local board 9-12 adopted core and ancillary EL support materials;" because Education Code 99237.5 does not reference EL theoretical framework content; and there is no approved, adopted framework among voluminous known frameworks.

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Response: Based on this and other public comment recommendations, Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

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Comment #46: Regarding page 21, lines 29-32, we recommend the following: Change: "(B) Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards and ELD Standards, and academic language" and Delete: lines 30-32 because forty percent for demonstrations and modeling on how to differentiate instruction to meet the needs of English learners is needed.

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Response: This recommendation is accepted as is. Section 11985.6(a)(8)(B) is revised as follows: "Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards, ELD standards, and academic language proficiency."

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Comment #47: Regarding page 21, lines 1-3, we recommend the following: Change: "(C) Thirty percent to adjust for change on page 20.

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Response: This recommendation is accepted as is. Section 11985.6(a)(8)(C) is revised as follows: "Thirty percent for practice…."

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Comment #48: Regarding page 21, line 22, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.

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Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.

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Comment #49: Regarding page 22, line 9, we recommend the following: Change: "at least two qualified reviewers" because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.

Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.

Comment #50: Regarding page 22, lines 16, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.

Response: Section 11985.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #51: Regarding page 22, line 17, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.

Response: Section 11985.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.

Comment #52: Regarding page 22, line 22, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.

Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.

Comment #53: Regarding page 22, line 23, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.

Response: This recommendation is accepted as is. Section 11985.6(b)(6) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils."

Martha Hernandez, Director of Curriculum, Instruction and Continuous Improvement, Ventura County Office of Education, in an e-mail dated May 25, 2007, submitted twelve comments:

Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELL's for teachers instructing these students, within the 40 of the 80 follow up hours.

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It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted: "Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners."

The lettering of the subsequent subsections will need to change as well.

Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English Learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Comment #2: Regarding Sections 11985.5(b), page 18, and 11985.6 (b), page 22, it is recommended that a call for the establishment of a review panel be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. The SB 472 Advisory Committee is comprised of individuals representing a broad spectrum of disciplines and possessing the knowledge, expertise and skills necessary to perform the important responsibilities of approving or disapproving a training curriculum and training providers. Why reinvent the wheel when a capable cadre of individuals is already available to do these important activities. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.

Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.

Comment #3: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic

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nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."

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Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

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Comment #4: Regarding Section 11985(b), page 16, line 25 the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."

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Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following...."

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Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."

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Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."

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Comment #6: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development".

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Response: This recommendation is accepted. Section 11985.5(c)(3). Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice to increase student learning and language acquisition[.]"

Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.

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Response: The intent of the ELPD is to deepen the knowledge and application of the initial forty hour SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered to Section 11985.5(c)(6) and will not be deleted. However, it is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve[.]"

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Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

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Comment #10: Regarding Section 11984.5, Curriculum Review of the Initial Forty Hours, page 12, line 17, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. It is also recommended that language be inserted that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

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Comment #12: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, the same recommendation is made with respect to inserting language requiring the reason(s) for disapproving or approving a prospective provider's written proposal as well as providing a written letter stating the reasons for disapproval to rejected providers.

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Response to Comments #8, 10, and 12: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel

deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved."

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Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

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Comment #9: Regarding Section 11983, page 8, line 9, Education Code Section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.

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Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."

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Comment #11: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students. It is recommended to delete the words "may include" and insert "including."

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Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

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Sandra Ceja, Director, Reading First, Regional Technical Assistance and Reading Implementation Centers, San Diego County Office of Education, in an e-mail dated May 25, 2007, submitted twenty-eight comments:

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Comment #1: Regarding Section 11985 Training Curriculum for English Learner Professional Development, overall, this section has a lot of redundancy and isn't very clear. It appears that there are three main sections:

1. The first section sets the common resources (standards, frameworks, assessments, instructional materials) that will be used and embedded into the training.
2. The second component specifically addresses effective instruction to provide equitable access to grade-level content area instruction, in Reading/Language Arts or Mathematics, including effective use of the Universal Access components as well as planning and delivering core instruction lessons.
3. The third component addresses the understanding of specific language instruction for EL's, including levels of language proficiency, analysis of student work, effective instruction to promote language acquisition, and use of the most current research and approved instructional materials.

Comment #2: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training, and include the following core components:

1. Standards: Academic content standards and English Language development standards, with an emphasis on how they interrelate across the four domains of listening, speaking reading and writing to simultaneously allow for equitable access to grade level content and develop language proficiency.
2. Frameworks: Current curriculum frameworks, with particular emphasis on the Universal Access components and sections that highlight the unique needs of English Learners.
3. Research: Current, scientifically-based research related to effective instructional practices to provide equitable access for English Learners to content, using the SBE approved instructional materials and to provide English Language Development that will support EL's in achieving proficiency in English in the most effective and efficient manner possible.
4. Assessment: Use of standardized assessment data, including the CELDT, CST, CAHSEE and other STAR assessment components, to monitor and assure the progress of English Learners to reach proficiency in English and grade level content.

Comment #3: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training to support English Learners in accessing core, content area instruction using SBE approved curriculum:

1. Effective use of the Universal Access components of the SBE approved instructional programs designed to provide English Learner access to core, content area instruction.
2. Deepen and extend the content knowledge of participants to identify and efficiently teach the linguistic structures embedded in the SBE approved instructional programs. This would include a thorough review of linguistic features, with emphasis on contrastive analysis that leads to the transfer of skills from one language to another.

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3. Effective instructional strategies to support comprehension and access to content area instruction, including text and lesson analysis for language and content. Participants would learn and practice planning lessons to address and support the needs of students at various levels of English proficiency.
4. Analysis of oral and written language production of English Learners to inform and design effective instruction.

Comment #4: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training to support English Learners in reaching English Language proficiency in the most efficient manner, including:

1. A thorough understanding of the different levels of English Language proficiency and how to plan instruction that is designed to promote advancement from each level.
2. Current, scientifically-based research related to the effective instruction of second-language learners.
3. Strategies to use the Certified Supplemental Materials for English Learners as tools for ELD instruction. Effective use of ELD materials that are aligned to the core curriculum in several program options in subsequent adoptions, as defined in the criteria in the new Reading/Language Arts Framework.
4. Development of vocabulary and language for purposeful oral and written communication that emphasizes structured opportunities for practice.

Response to Comments #1-4: Education Code section 99237.5 and Sections 11985-11985.6 included in the regulations outline the content of the training and requirements for training providers' proposal. These four comments capture the essence of the 40 hours English Learner Professional Development.

Comment #5: Regarding Section 11985 New (a), page 16, lines 5-6, "Foundational knowledge specifically designed to assist EL pupils to attain…." This use of "foundational knowledge" is not clear or specifically defined and could be interpreted in a variety of ways. It is also unclear how such "foundational knowledge" could be "designed to assist EL pupils…." There is current, reliable research that is available regarding the instruction of EL's, including the recent EdSource document, the National Literacy Panel work, the Center for Instruction document (Research-based Principles for Teaching EL's), and even some pieces in a recent Elementary School Journal publication. A bibliography or glossary to define terms would be needed if there is such defined "foundational knowledge that is aligned to current, reliable research."

Response: The term "Foundational Knowledge" was coined by the SB 472 ELPD Advisory Committee and is defined in section 11985(a). The criteria of this component is included in Section 11985(a)(1-5).

Comment #6: Regarding Section 11985 New (a), Part (2), page 16, lines 14-15, "A thorough review of the curriculum frameworks, academic content standards and ELD standards relevant to instructing EL pupils" The framework and the standards

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are relevant for ALL students. Better language may be: A thorough review of the academic content and ELD standards and current curriculum frameworks, with particular emphasis on specific sections which address the specialized needs of English Learners to provide equitable access to grade level standards and approved curriculum.

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Response: This recommendation is accepted in part. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards."

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Comment #7: Regarding Section 11985 New (a), Part (2), page 16, lines 16-17, the Education Code clearly defines "scientifically based research" and perhaps the word current should be inserted (Current, scientifically-based research") and an approved list of research should be cited relative to instruction of English Learners. There is too much margin for interpretation.

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Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

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Comment #8: Regarding Section 11985 New (a), Part (4), page 16, lines 18-20, perhaps CELDT is implied in the STAR system, but it might be valuable to list it individually, particularly because the initial 40-hour training does not require a review of CELDT.

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Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

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Comment #9: Regarding Section 11985 New (a), Part (5), page 16, lines 21-24, line 23 uses "English fluency" which could be confused or misinterpreted with reading fluency and correct/common language uses the word, proficiency. Better language:" addressing the various levels of English proficiency."

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Response: This recommendation is accepted. Section 11985(a)(5) is revised as follows: "Essential components of a comprehensive program of ELD that include actively developing all domains of language, addressing various level of English proficiency and academic English, while creating a supportive learning environment for language learning."

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Comment #10: Regarding Section 11985 New (b), Page 16, lines 25-26, a comma is needed "ELD instruction designed to meet the academic, instructional needs of EL pupils…."

Response: SBE does not believe a comma is needed, particularly in light of newly added language.

Comment #11: Regarding Section 11985 New (b), Part (1), page 16, lines 27-29, the components of the various programs that were designed to support English learners are generally not collided components, but are identified as Universal Access components for English Learners. These components are not designed to help teachers understand ELD content, but to help them more effectively teach English Learners. The new Reading/Language Arts/English Language Development Framework Criteria for programs will include ELD for some of the program options. Use of English Language Development materials (currently supplemental and aligned to core in the future) is addressed in subsequent sections. Better language: Effective use of the ELD Universal Access components of the SBE adopted instructional materials for kindergarten through grade eight specifically designed to help teachers of EL pupils understand ELD content effectively teach English Learners.

Response: Education Code section 99237.5 (b)(4) requires that the training include, "Comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs." This portion of the statute already makes clear the use of the universal access components and does not need to be added to these regulations.

Comment #12: Regarding Section 11985 New (b), Part (2), page 16, lines 30-31, the research needs to be current, the word "findings" is unnecessary, and instructional practices are not for "learning" but to support the learner, or to support effective instruction. Better language: "Current scientifically-based research findings related to the instructional practices for effective instruction of second language learners."

Response: This recommendation is accepted in part. The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."

Comment #13: Regarding Section 11985 New (b), Part (3), page 16-17, lines 32-1, we need teachers to know how to plan and deliver effective instruction for English Learners. Better language: "A thorough understanding of levels of English language proficiency and how to plan and deliver instruction for each level."

Response: Education Code section 99237.5(a)(4)(D) requires the following: "It shall be capable of delivering a thorough knowledge of the core academic content standards using the English language development standards to deliver instruction, as applicable." Coupled with the criteria included in Section 11985, the requested recommendation is extensively included in the training criteria.

Comment #14: Regarding Section 11985 New (b), Part (4), page 18, lines 2-3, the legislation states that the provider should include strategies for using the materials. Each district has different materials and has allotted a different amount of time for

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supplemental ELD. The language should also include something about the framework program options for the new adoptions which include aligned ELD. Once those are available, we would want specific support for teachers in planning and using them. "Strategies to effectively and efficiently use Certified Supplemental Materials for English Learners as tools for ELD instruction."

Response: Education Code section 99237.5 (a)(4)(C) requires the following: "It shall include strategies to use supplementary materials with the state board adopted program to meet the needs of English language learner pupils." Meeting the instructional needs of ELLs in language and literacy is the primary purpose for including the supplementary materials in the statute. Section 11985(b)(4) is revised as follows: "The planning of ELD instruction to effectively and efficiently use ELD standards and certified supplemental materials for English learners as tools for ELD instruction[.]"

Comment #15: Section 11985 New (d), Part (4), lines 19-20 is worded awkwardly and doesn't make sense as written. "Effective comprehension and instructional strategies to teach essential content" Better wording: Instructional strategies to improve comprehension and access to core content.

Response: Section 11985(d)(4) has been deleted. Education Code section 99237.5(a)(4)(A) already includes this provision and states the training "shall be sufficient in scope, depth, and duration to fully equip teachers with comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs."

Comment #16: Regarding Section 11985.5(b), page18, lines 4-5, we can't afford to have reviewers that only have "knowledge of information related to math or reading, they need to "To be a qualified reviewer, a reviewer shall have experience teaching EL pupils and have knowledge of information related to teaching mathematics or reading, as applicable…."

Response: Section 11985.5(b)(1-6) references the extensive qualification to be a reviewer of the ELPD program. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.

Comment #17: Regarding Section 11985.6(a), Part (8) Section (A), as it currently reads: "Thirty percent for presentation and direct instruction of EL theoretical framework, research, and academic content standards while using ELD standards to deliver instruction." This first content objective should be based on supporting EL access to core, grade-level, content-area instruction. As it reads, the state would need to define what the theoretical framework for teaching English learners is. There is current research, which should inform instruction for English Learners. Knowledge of the ELD standards and levels of proficiency should be used to scaffold instruction.

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Better language: Thirty percent for presentation and direct instruction of current research as related to the effective instruction of English Learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction.

Response: This recommendation is accepted as is. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed research as related to the effective instruction of English learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."

Comment #18: Regarding Section 11981(a), page 1, lines 23-30, Funding Allocation, the previous legislation clarified that any district that was not fully reimbursed for training provided during one fiscal year, would be first eligible for reimbursement in the subsequent year. This is not clear in the proposed regulations for funding. It puts districts in a difficult position when they would like to have all of their teachers trained to not be sure if they will ever be reimbursed.

This is good clarification to indicate that the funds should be used to improve the implementation of the curriculum through additional professional development

Response: Funding under this statute is described in Education Code section 99234.

Comment #19: Regarding Section 11982 (a), page 6, lines 7-11, Local Education Agencies' Assurances of Compliance, "The professional development was delivered by a provider or providers approved…." While the requirement to use an approved provider is clearly in the law, striking this language may make it appear that an approved provider or providers is not required. With the upcoming adoption in language arts, the language may even need to be clarified by stating that a "currently approved provider" is required.

Response: Education Code section 99237(a)(1) requires that, "an LEA submit a certified assurance signed by the appropriate agency official and approved in a public session by the governing body of the agency to the state board that it contracted with a provider whose training curriculum has been SBE approved. Both the provider and curriculum must be SBE approved.

Comment #20: Regarding Section 11982 (b), page 6, lines 12-18, "The local educational agency (LEA) has or will have by the commencement of training, instructional materials…" While the requirement to use approved instructional materials is clearly in the law, striking this language may make it appear that any instructional materials are qualified. With the upcoming adoption in language arts, the language may even need to be clarified by stating that a "currently approved curriculum" is required.

Response: Education Code section 99237(a)(3)(A) requires that an LEA "provide each pupil with instructional materials that are aligned to the state content standards in mathematics and English language arts no later than the first day of the first school

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term that commences 12 months or less after those materials are adopted by the state board in the case of instructional materials for kindergarten and grades 1 to 8, inclusive, or by the governing board of the school district in the case of instructional materials for grades 9 to 12, inclusive." Once the new adoptions occur, the former adoptions are no longer considered to be SBE adopted instructional materials. LEAs will need to purchase the new SBE adopted instructional materials to be considered eligible for the training under this provision of law.

Comment #21: Regarding Section 11983.5(b), page 9, Item 1, lines 5-6 Definition of Instructional Materials, "The instructional materials were purchased by the district prior to the 2002 Reading/Language Arts/English Language Development Adoption (RLA/ELD)." This section does not reference mathematics materials and also needs to emphasize currently adopted materials, as there are new programs coming into place before the professional development legislation ends.

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Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.

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Comment #22: Regarding Section 11984 (b), page 10, lines 10-11 Training Curriculum for the Initial Forty Hours, the word current needs to be inserted: "A thorough review of the current curriculum framework and academic content standards…." We need to emphasize the use of the newest framework versions.

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Comment #24: Regarding Section 11984.5 (b), page 11, Part (2), line 9 Curriculum Review of the Initial Forty Hours, the word current needs to be inserted: "Current curriculum frameworks." We need to emphasize the use of the newest framework versions.

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Response to Comments #22 and 24: Whenever referenced, the curriculum frameworks and academic content standards always refer to the most current.

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Comment #23: Regarding Section (e) Part (2) line 20, Universal Access needs to be capitalized, as they are specific components of the framework criteria and the adopted programs.

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Response: These regulations as well as Education Code referenced in this program do not capitalize the term "universal access" even though they are specific components of the framework criteria and adopted programs.

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Comment #25: Regarding Section 11984.5 (c), page 11, Part (1), lines 20-21, providers should have knowledge of ALL of the mathematics or reading/language arts standards, because they co-articulate and build upon one another. They also need to be able to convey to the participants how to teach the standards, we are not assessing the provider's ability to teach the standards. Better language: "Knowledge of all mathematics or reading/language arts standards and how to effectively teach such standards."

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Response: Section 11984.5(b)(1-5) references the extensive qualification to be a reviewer of the initial training. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.

Comment #26: Regarding Section 11984.6 (a), page 13, Part (8), Subsection (A), lines 21-23 Training Providers of the Initial Forty Hours, the language needs to clarify that the instruction needs to focus on the approved materials, including the Universal Access components. "Ancillary materials" is too open-ended. We have some publishers that have focused time and attention on additional products that they sell that are not part of the approved curriculum and are not based on Scientifically Based Reading Research. Better language: "Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components including Universal Access components."

Response: This recommendation is accepted as is. Section 11984.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components including Universal Access components."

Comment #27: Regarding Section 11984.6 (a), page 14, Part (11), Subsection (A), lines 1-3, Training Providers of the Initial Forty Hours Providers should be directed to directly involve the LEA leadership in the planning and implementation of the institutes, but a provider cannot ensure attendance of any LEA staff, particularly when the participants have multiple, statewide opportunities to attend institutes. Better language may be: "A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training is informed about the training content and is prepared to support implementation."

Response: The SBE supports the recommendation of the SB 472 ELPD Advisory Committee that the presence of district leadership is critical to successful implementation of effective professional development. According to these regulations, the superintendent may designate someone other than him/herself as the one present at the training.

Comment #28: Section 11985.5(c), page 18, Curriculum Review for ELPD requires the review panel to review all trainings for an extensive list of qualities and the criteria should require that those SBE-selected panel members be able to demonstrate thorough knowledge and experience with all of the components for which the trainings will be reviewed. The SBE-selected panel should demonstrate direct support and experience in working with teachers, schools or districts to actively implement the Essential Program Components (EPC's), under which a large majority of the target population identified in the funding priority criteria will be operating. They must demonstrate a belief system that English Learners must be provided equitable

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access to core curriculum at every grade level and specific instruction to reach the highest levels of receptive and productive language and that these things are possible with adequate instruction and scaffolding. With this in mind, additions and clarification regarding the selection committee [Section (b)], to be designated by and acting under the SBE, should add at minimum the following:

1. The SBE-selected review panel members should be highly informed about and supportive of the current state and federal initiatives for program improvement in California. They should demonstrate experience working directly with teachers, schools or districts to implement the standards, frameworks and instructional materials with English Learners. If the review panel members are not highly informed about and supportive of the Essential Program Components (EPC's) that are currently being implemented in the schools and districts in California, they will not have adequate background to support the target population that is identified for funding priority in SB472.
2. The SBE-selected review panel members should present letters of recommendation from their district or county level administrators who can attest to the work that the individual has done to directly support the implementation of the approved curriculum, including the EL Universal Access components. The criterion for the committee does not currently require that the panel members know or have experience with the implementation of the adopted curriculum programs; it only requires general knowledge about the frameworks, standards, research and assessment.
3. The SBE-selected review panel characteristics do not include a requirement for the panel members to have been an instructor of or participant in AB466/SB472 or AB75/AB430 professional development. In order to have a knowledgeable panel who can review the content for the ELPD institute, there must be a critical mass of individuals who have deep knowledge and experience with the initial 40-hour training in order to adequately determine that the ELPD builds from and connects to the initial 40-hour institute.
4. The SBE-selected review panel should demonstrate knowledge and experience with all of the components listed as core requirements for the training to be approved in Section (c).

Response: Section 11985.5(b)(1-6) references the extensive qualification to be a reviewer of the ELPD program. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.

Pamela Spycher, Senior Research Associate Director, English Learners and the Language Arts (ELLA), Comprehensive School Assistance Program, WestEd, in an e-mail dated May 25, 2007, submitted two comments:

Comment #1: Regarding Section 11985 Training Curriculum for English Learner Professional Development, overall, this section appears to incorporate some critical components of the kind of professional development teachers working with EL

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students' need. However, the section is a bit unwieldy and unclear. For example, while it is fundamental that the EL PD training should build upon the initial 40-hour SB 472 training, this is not explicitly stated in the section. Vague language, such as "foundational knowledge" (a) and "essential components of a comprehensive program of ELD" (a5) may lead to confusion for providers as there are not widely agreed upon definitions of these terms. If these terms are to be used, a glossary would be helpful.

Response: Education Code section 99237.5(d) states that to be eligible for the ELPD training, a teacher shall have completed 40 hours of training pursuant to Education Code section 99237. In addition, section 99237.5(e) states that a teacher has the option of allowing participation in the ELPD training to fulfill fifty percent of the 80 hours of follow-up training under Education Code section 99237. In conjunction, these statutes indicate that the ELPD training is intended to build upon the initial 40 hours of training. Regulations are not required to restate the statute.

SBE considers the terminology included in the regulations sufficiently clear. In the event terminology proves to be unclear, SBE will consider amending the regulations to clarify terminology.

Comment #2: The EL PD training should extend teachers' knowledge about language development in a particular content area and enhance their pedagogical skills to provide effective instruction to EL students. Accordingly, the training should not repeat the initial 40-hour training, but focus on elements that were not addressed or not deeply addressed in the initial 40-hour training. These elements include:

1. Using CELDT and other language assessment data, including formative assessment, to inform instructional practice and to track student progress over time,
2. Instructional strategies that address the language demands of core content and provide structured and supported opportunities for students to practice, both orally and in writing, new ways of using school language,
3. Current research addressing second language development and instruction that is directly relevant to the core content area in the training,
4. Strategic analysis of the academic content standards, ELD standards, and current curriculum frameworks and how they interrelate with the core curriculum,
5. Ways to use the Universal Access handbooks to provide access to the core content for students at different levels of English linguistic proficiency, and
6. Planning and effectively delivering lessons to EL students, including attention to student engagement, language development objectives, and evaluating the effectiveness of lessons.

Response: The essence of each of these recommendations is included in either Section 11985 or Education Code section 99237.5. Accordingly, it is anticipated that the essence of these recommendations will be included in the ELPD training.

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Shelly Spiegel Coleman, Chairperson, Californians Together, in a fax dated May 25, 2007, submitted twelve comments:

Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELL's for teachers instructing these students, within the 40 of the 80 follow up hours. It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted: "Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners."

The lettering of the subsequent subsections will need to change as well.

Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English Learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

Comment #2: Regarding Sections 11985.5(b), page 18 & 11985.6 (b), page 22, it is recommended that a call for the establishment of a review panel be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. The SB 472 Advisory Committee is comprised of individuals representing a broad spectrum of disciplines and possessing the knowledge, expertise and skills necessary to perform the important responsibilities of approving or disapproving a training curriculum and training providers. Why reinvent the wheel when a capable cadre of individuals is already available to do these important activities. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.

Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.

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Comment #3: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."

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Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to the language and literacy of EL pupils which address the value of the diagnostic nature of standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"

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Comment #4: Regarding Section 11985(b), page 16, line 25 the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."

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Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."

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Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."

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Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."

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Comment #6: Regarding Section 11985.5 (c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."

Response: This recommendation is accepted. Section 11985.5(c)(3). Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, and how to apply this research to classroom practice to increase student learning and language acquisition."

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Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2 – 5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.

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Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) will not be deleted but is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve."

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Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

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Comment #10: Regarding Section 11984.5, Curriculum Review of the Initial Forty Hours, page 12, line 17, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. It is also recommended that language be inserted that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.

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Comment #12: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, the same recommendation is made with respect to inserting language requiring the reason(s) for disapproving or approving a prospective provider's written proposal as well as providing a written letter stating the reasons for disapproval to rejected providers.

Response to Comments #8, 10, and 12: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."

Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."

Comment #9: Regarding Section 11983, page 8, line 9, Education Code Section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.

Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."

Comment #11: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students. It is recommended to delete the words "may include" and insert "including."

Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."

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COMMENTS RECEIVED DURING THE PERIOD THE SECOND 15-DAY NOTICE, FOR DOCUMENTS RELIED UPON IN AMENDING THE REGULATIONS, WAS AVAILABLE TO THE PUBLIC

The documents relied upon in amending the regulations were made available to the public from June 7, 2007 through June 21, 2007, inclusive. The following comments were received.

Alice R. Furry, Kathy Cooper, Sharon Van Vleck, and Beth Rice, Reading Lions Center, in an email received on June 21, 2007, submitted sixteen comments:

The sixteen comments submitted by this agency pertain to the requirements for the SB 472 ELPD curricula and providers. These comments essentially match the comments submitted by this agency and others during the first 15-day public comment period. The documents mentioned in the notice for the second 15-day public comment period for documents relied upon constitute the recommendations submitted by the SB 472 ELPD Advisory Committee, and the documents were relied upon as sources in developing the ELPD regulations. The documents developed by the Committee will not be changed. However, the SBE notes that the documents have no binding effect and will not serve as guidance for the ELPD. Rather, it is the criteria in the regulations and in Education Code 99237.5 that will be binding and will help guide the SB 472 ELPD.

COMMENTS RECEIVED DURING THE PERIOD THE THIRD 15-DAY NOTICE AND PROPOSED REGULATION TEXT WAS AVAILABLE TO THE PUBLIC

The modified text was made available to the public from July __, 2007 through July __, 2007, inclusive. No comments were received.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

REGULATIONS TO BECOME EFFECTIVE UPON FILING

The SBE requests that these regulations become effective upon filing because no current regulations are in effect for the English learner professional development portion of the program. Delaying of the regulations will also delay the date that teachers may begin their training on instruction for English learners.

6-25-07 [California Department of Education]

~~FINAL STATEMENT OF REASONS~~
~~Math and Reading Professional Development (MRPD) Program~~

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~~UPDATE OF INITIAL STATEMENT OF REASONS~~

~~The proposed regulations specify the addition of new training requirements included in Senate Bill (SB) 472 and the State Board of Education (SBE) approved (November, 2006) *Guidelines and Criteria for Training Curriculum*.~~

~~The 45-day public comment period began on January 20, 2006 and ended at 5:00 p.m. on March 16, 2007. No written comments were received. A public hearing was held on March 16, 2007, at 10:00 a.m. One individual appeared but did not provide oral or written comments.~~

~~The SBE determined that additional changes to the regulations were needed primarily to address recommendations from the SB 472 English Learner Professional Development Advisory Committee. In December 2006, the State Superintendent of Public Instruction appointed members to the committee. The committee convened and made recommendations for the English learner part of the Mathematics and Reading Professional Development (MRPD) program. Most of the changes included in the amended regulations are due to the committee's recommendations. In addition to miscellaneous clarifications, specific purposes of the proposed amendments are: (1) to include the recommendations for the guidelines and criteria for training curriculum of English learners; (2) to include recommendations for the guidelines and criteria for English learner training providers, and (3) to include recommendations for implementation of the English learner part of the MRPD program; (4) to clarify funding as to the 80 hours of follow up professional development, including English learner professional development; (5) to clarify the review process for training curriculum and training providers related to the initial forty hours of training and English learner training.~~

~~A first 15-day comment period commenced from May 11, 2007 to May 25, 2007, inclusive. A second 15-day comment period related to documents relied upon commenced from June 7, 2007, to June 21, 2007, inclusive. A third 15-day comment period commenced from July __, 2007, to July __, 2007, inclusive.~~

~~Before discussing the public comments received and the attendant additional changes to the regulations, the SBE provides the following updates regarding the overall structure of the regulations and the initial changes made for the first comment period.~~

~~Section 11981.[2] Funding Allocation for Program Training Pursuant to Education Code Section 99237.~~

~~This section is amended to clarify its application to funding pursuant to Education Code section 99237, as opposed to Education Code section 99237.5.~~

~~Section 11981.3. Funding Allocation for Teachers of English Learners.~~
~~This section is added to address funding allocation for professional development of teachers who teach English learner pupils.~~

~~Section 11983. Instructional Materials.~~

~~This section is amended to ensure pupils are provided with currently adopted instructional materials.~~

~~Section11984. Training Curriculum for the Initial Forty Hours.~~

~~This section is amended to clarify its application to training curriculum developed for training pursuant to Education Code section 99237, as opposed to Education Code section 99237.5.~~

~~Section 11984.5. Curriculum Review of the Initial Forty Hours.~~

~~The information contained in this new section number borrows from what had been proposed, in large measure, under a different section number and clarifies that it applies to a curriculum review for training curriculum developed pursuant to Education Code section 99237, as opposed to Education Code section 99237.5. The section also clarifies the review process and makes explicit that the SBE may base its approval or disapproval of a training curriculum on the items referenced in the section or the recommendation of the review panel.~~

~~Section 11984.6. Training Providers of the Initial Forty Hours.~~

~~The information contained in this new section number borrows from what had been proposed, in large measure, under a different section number and clarifies that it applies to a review of a prospective provider pursuant to Education Code section 99237, as opposed to Education Code section 99237.5. The section also clarifies that a review process applies, that the SBE may base its approval or disapproval of a training provider on the items referenced in the section or the recommendation of the review panel, and that an approved provider may only use specified curriculum.~~

[2] All section references are to the California Code of Regulations, title 5, unless otherwise stated.

~~Section 11985. Training Curriculum for English Learner Professional Development.~~

~~This section is substantially similar to section 11984, except that it applies to training curriculum developed for training pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.~~

~~Section 11985.5. Curriculum Review of English Learner Professional Development.~~

~~This section is substantially similar to section 11984.5, except that it applies to curriculum review for training pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.~~

~~Section 11985.6. Training Providers of English Learner Professional Development.~~

~~This section is substantially similar to section 11984.6 except that it applies to the approval of training providers pursuant to Education Code section 99237.5 (English learner training) as opposed to Education Code section 99237.~~

~~COMMENTS RECEIVED DURING THE PERIOD THE FIRST 15-DAY NOTICE AND PROPOSED REGULATION TEXT WAS AVAILABLE TO THE PUBLIC~~

~~The modified text was made available to the public from May 11, 2007 through May 25, 2007, inclusive. The following comments were received:~~

~~Aida Molina, Executive Director, Instructional Services Bakersfield City School District and in an e-mail dated May 25, 2007, submitted the following two comments:~~

~~Comment #1: Regarding Section 11985, page 16, line 16, it mentions "scientifically based research." What specific research is this bill referring too? The linguistic and language acquisition research is very broad and spans a variety of theories, approaches and biases about language.~~

~~Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #2: Regarding Section 11985.6, page 20, line 26 it states, "Thirty-percent for presentation and direct instruction of EL theoretical framework, research, and academic content standards while using the ELD standards to deliver instruction." Which EL theoretical framework? It is clear that the authors have a picture of what needs to happen in this training but I am unclear how this should be executed and implemented. From the text, I am also unsure what the content of the training will be and what my teachers will receive as participants. Furthermore, I need to know what the theoretical bias will be. As an administrator, I need to know what they will bring back to the classroom and how that will transfer to achievement.~~

~~Response: Section 11985.6 (a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Martha Hernandez, President, California Association for Bilingual Education (CABE), in a fax dated May 25, 2007, submitted the following ten comments:~~

~~Comment #1: Regarding Section 11985.6, page 18, line 32, SB472 was amended to specifically include, among other provisions, professional development for teachers instructing students who are English Language Learners (ELL), within the 40 of the 80 follow up-hours. It is critical, therefore, that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted: "(a) Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners".~~

~~Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Comment #2: Regarding Sections 11985.5(b), it is recommended that a call for the establishment of a review panel to be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. Concern was expressed that the panels should be comprised of more than two people.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #3: Regarding Sections 11985.6(b), it is unclear as to whether a committee was established to advise the State Superintendent on SB 472. Perhaps this advisory committee can be used instead of the review panels. Using the SB 472 advisory committee would save time and money specific to this process. More importantly, it would provide "reviewers" that are qualified, experienced and with expertise specific to~~

~~professional development and training curriculum specific to ELL students. It is recommended that the SBE utilize the SB 472 advisory committee instead of the review panels.~~

~~Response: Education Code section 99237.5(h) required the State Superintendent of Public Instruction (SSPI) to appoint an advisory committee for the purpose of making recommendations, including, but not limited to, all of the following: training criteria, training providers, implementation of the program, and whether or not this type of training to teachers of English learners in other subjects besides reading and mathematics is appropriate. The Advisory Committee met on four separate occasions and provided recommendations to the SSPI. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the English Learner Professional Development (ELPD) review panel, other qualified individuals will also be appointed to function in this capacity.~~

~~Comment #4: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."~~

~~Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #5: Regarding Section 11985(b), page 16, line 25, the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following...."~~

~~Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."~~

~~Comment #6: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development".~~

~~Response: This recommendation is accepted as is. Section 11985(d)(1)is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."~~

~~Comment #7: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."~~

~~Response: This recommendation is accepted. Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice in order to increase student learning and language acquisition."~~

~~Comment #8: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.~~

~~Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered as Section 11985.5(c)(6) and will not be deleted. However, it is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve[.]"~~

~~Comment #9: Regarding Section 11985.5(e), page 19, line 24, and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose~~

~~curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #10: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is suggested to delete the words "may include" and insert "including." Requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students.~~

~~Response: The criteria and provisions included in Sections 11984 through 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Laurie Olsen, Executive Director, California Tomorrow, in a fax dated May 25, 2007, submitted the following six comments:~~

~~Comment #1: Regarding Section 11985.6, page 18, line 32, it is essential that providers of professional development under this program have expertise related to meeting the needs of English Learners. We recommend adding a requirement that providers demonstrate evidence of having provided English Learner professional development that addresses the specific language needs (overcoming the language barrier to access, and the development of academic language in all four domains) of English Learners.~~

~~Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers must possess to be considered as SB 472 English learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Comment #2: Whatever panel is established to review the providers and curriculum must similarly include deep expertise on English Learners. We recommend perhaps using the existing SB 472 Advisory Committee for this purpose.~~

~~Response: Education Code section 99237.5(h) required the State Superintendent of Public Instruction (SSPI) to appoint an advisory committee for the purpose of making recommendations, including, but not limited to, all of the following: training criteria, training providers, implementation of the program, and whether or not this type of training to teachers of English learners in other subjects besides reading and mathematics is appropriate. The Advisory Committee met on four separate occasions and provided recommendations to the SSPI. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.~~

~~Comment #3: Regarding Section 11985(b), page 16, line 25, in order to ensure that the language challenges facing English Learners are addressed adequately, it is recommended this section is revised to read: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."~~

~~Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following…."~~

~~Comment #4: Regarding Section 11985(d)(1), page 17, line 13, it is recommended that this section be revised to read: "(1) Knowledge of reading/language arts instruction to support - EL pupils in oral language development, vocabulary development and writing development."~~

~~Response: This recommendation is accepted as is. Section 11985(d)(1) is renumbered to Section 11985(c)(1) and is revised as follows: "(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."~~

~~Comment #5: Regarding Section 11985.5(e), page 19, line 24, and 11985.6(d), page 23, line 3, for clarity and credibility, it is important that SBE make public reasons for disapproval of any curriculum. Insert language in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum.~~

~~Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #6: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is recommended to delete the words "may include" and insert "including."~~

~~Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Guillermo Gomez, Elementary Content Expert, LAUSD-District Reading Programs, in an e-mail dated May 25, 2007, submitted the following five comments:~~

~~Comment #1: Regarding Section 11983.5, page 9, line 7, the specially designed instructional materials must be from the core instruction. I hope we are not allowing supplementary materials to supplant instruction; this would take us farther away from our intended goals, when we do not use standards-based materials.~~

~~Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.~~

~~Comment #2: Regarding Section 11985, page 16, line 15, it is recommended to remove the word "relevant" from this line. If we are only to train relevant standards, I would like to know which standards do not count for children at-risk.~~

~~Response: This recommendation is accepted in part. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards;"~~

~~Comment #3: Regarding Section 11985, page 17, line 23, it is recommended that the word "design" be removed from this line. We need to pre-teach, scaffold, and nourish the core curriculum through instructional density and repeated exposures. We do not have the luxury of having teachers create new curriculum lessons across subjects. We need to work within existing instructional structures to maximize success for both teachers and students alike.~~

~~Response: This recommendation is accepted as is. Section 11985(d)(6) is renumbered to Section 11985(c)(5) and is revised as follows: "Analysis of second language markers in oral and written language production to inform instruction."~~

~~Comment #4: Regarding Section 11985.5, page 18, line 22, it is recommended that "various" instructional strategies be stricken, to read scientifically-based instructional strategies. There is a finite number of scientifically-based strategies and we can at least agree on those (example SDAIE instruction), rather than open a buffet line of techniques that have not been subject to researched-based studies.~~

~~Response: This recommendation is accepted as is. Section 11985.5(c)(2) is revised as follows: "Knowledge and understanding of how standards are supported through the curriculum frameworks in regard to differentiating instruction through universal access and teaching instructional strategies related to mathematics or reading/language arts for EL pupils[.]"~~

~~Comment #5: Regarding Section 11985.6, page 20, line 26, what is the EL theoretical framework? This is ambiguous language at best and is a mythical term for experimentation. This Theoretical Framework does not have a linguistically competent track-record for districts or providers to quantify in training. Let us stick to the language of the ELA and Math frameworks, that is difficult enough for trainers and providers to follow and we can maintain our focus on bridging the ELD standards to reach academic benchmarks for children.~~

~~Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Leslie Schwarze, Novato Unified School District, in an e-mail dated May 25, 2007, submitted the following six comments:~~

~~Comment #1: Regarding Section 11983.5(2), page 9, lines 7-11, there should be language here that designates a sunset date considering we are about to go through a new adoption cycle for both math and language arts.~~

~~Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.~~

~~Comment #2: Regarding Section 11984.5(b), page 11, line 5, 11984.6(b), page 12, line 28, the old language was much better, "one or more" will allow one and that is not acceptable.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #3: Regarding Section 11984.6(11), page 14, lines 1-3, this should also be included in the district application so that it is apparent from the very beginning that someone must be present at the training.~~

~~Response: It is anticipated that this recommendation will be taken into consideration when the SB 472 LEA application is revised.~~

~~Comment #4: Regarding Section 11985.6(A), page 20, lines 26 and 27, please strike "EL theoretical framework." It is not necessary as this section is written.~~

~~Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Comment #5: Regarding Section 11985.6(A), page 20, line 28, it is recommended that the word "deliver" be changed to "scaffold."~~

~~Response: This recommendation is accepted. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Comment #6: Regarding Section 11985 (New), page 15, lines 30-32, page 16, lines 1-32, and page 17, lines 1-25, regarding training providers and training curriculum need to be consistent with each other. As written they are not. Also, it appears that far more than 40 hours will be required to accomplish what is in the new section, 11985. As written it goes beyond the scope of the law.~~

~~Response: Sections 11985 and 11985.6 have different criteria. Section 11985 concentrates on the requirements placed upon a training provider (e.g. application) and Section 11985.6 concentrates on the requirements placed upon the training curriculum (e.g. content). Both sections include recommendations submitted by the SB 472 English Learner Professional Development (ELPD) Advisory Committee. The recommendations have been reviewed and are in alignment with SBE policy.~~

~~Gabriel Medel, Executive Director, Parents for Unity, in an e-mail dated May 25, 2007, submitted ten comments:~~

~~Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELs for teachers instructing these students, within the 40 of the 80 follow up hours. It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. It is recommended that a new subsection (a) be inserted: "(a) Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners".~~

~~Response: Education Code section 99237.5(a)(A-D) outlines quality standards each English learner professional development provider must possess. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237.5, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Comment #2: Regarding Sections 11985.5 (b) and 11985.6(b), it is recommended that a call for the establishment of a review panel to be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose of reviewing and approving the training providers and the training curriculum. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.~~

~~Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.~~

~~Comment #3: Regarding Section 11985(a)(4),Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and…."~~

~~Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #4: Regarding Section 11985(b), page 16, line 25, the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following…."~~

~~Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following....”~~

~~Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "(1) Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."~~

~~Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."~~

~~Comment #6: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."~~

~~Response: This recommendation is accepted. Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: “Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice in order to increase student learning and language acquisition.”~~

~~Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.~~

~~Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered to Section 11985.5(c)(6), and it will not be deleted. However, it is revised as follows: “Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve.”~~

~~Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Response: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #9: Regarding Section 11983, page 8, line 9, Education Code section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.~~

~~Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."~~

~~Comment #10: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, it is suggested to delete the words "may include" and insert "including." Requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed.~~

~~These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students.~~

~~Response: The criteria and provisions included in Sections 11984 through 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Alice R. Furry, Sharon Van Vleck, Beth Rice, Reading Lions Center, in an e-mail dated May 25 2007, submitted fifty-six comments:~~

~~Comment #1: Regarding Section 11980, page 1, lines 7-18, we recommend the following: Delete. Teacher Eligibility: reference to "a classroom that is not self-contained," because it is not a requirement of Education Code section 99233(a)(1) or (a)(2).~~

~~Response: The reference to "a classroom that is not self-contained" provides eligibility to K-12 teachers that teach in this particular school setting. Section 11980 will not be revised.~~

~~Comment #2: Regarding Section 11983.5, page 9, lines 9-11, we recommend the following: Change: ". . . approved and contained in the K-8 Reading/Language Arts and English Language Development basic and intervention programs adopted in January 2002 as approved by the State Board;" Delete: " by the Chair of the Curriculum…" because the information is inaccurate.~~

~~Response: This recommendation is accepted in part. Section 11983.5(b)(2) is revised as follows: "The LEA has in place specially designed instructional materials (components) to address the needs of EL pupils that is comparable to the instructional materials (components) approved and contained in the RLA/ELD programs adopted in January 2002 as approved by the State Board."~~

~~Comment #3: Regarding Section 11984.5, page 11, lines 4-5, we recommend the following: Change: "at least two qualified reviewers" because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for a 5-day training; and this was a requirement for AB 466 reviews.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #4: Regarding page 11, line 8 we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.~~

~~Response: Section 11984.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading, as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #5: Regarding page 11, line 8, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.~~

~~Response: Section 11984.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #6: Regarding page 11, line 12, we recommend the following: Add: "(4) Current and confirmed scientific research as defined in Education Code section 44757.5(j) related to the instructional practices for mathematics or reading/language arts" because it provides Education Code definition of research.~~

~~Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #7: Regarding page 11, line 13, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.~~

~~Response: This recommendation is accepted in part, and because this section references the initial 40 hour training, Section 11984.5(b)(5) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to all pupils."~~

~~Comment #8: Regarding page 11, line 18, we recommend the following: Add: "(c) The review panel shall review and document findings for each training curriculum . . ." because AB 466 review practice required reviewers to document both recommended and non-recommended curriculum trainings for record of citations given for Reviewers' decision.~~

~~Comment #10: Regarding section 11984.5, page 12, line 8, we recommend the following: Add: "(d) . . . referenced in this section based on documented findings, the review panel . . ." because it needs to record the reviewers' citations given for decision.~~

~~Comment #11: Regarding page 12, line 10e, we recommend the following: Change/Add: "(e) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because AB 466 review practice followed this procedure and it worked well.~~

~~Comment #12: Regarding page 12, lines 11-17, we recommend the following: Delete these lines for the wording from comment #11.~~

~~Comment #17: Regarding page 15, line 10, we recommend the following: Change/Insert language from page 12, line 8: "(c) . . . referenced in this section based on documented findings, the review panel . . ." because the review needs to include and record the reviewers' citations given for decision.~~

~~Comment #18: Regarding page 15, line 12d, we recommend the following: Change/Insert new language from page 12, lines 10e: (d) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because AB 466 review practice followed this procedure and it worked well.~~

~~Comment #19: Regarding page 15, line 13-20, we recommend the following: Delete and use new language from Comment #18.~~

~~Comment #43: Regarding page 19, line 15, we recommend the following: Change/Insert language from page 12, line 8: "(c) . . . referenced in this section based on documented findings, the review panel . . ." because the review needs to record the reviewers' citations given for decision.~~

~~Comment #44: Regarding page 19, lines 18-24, we recommend the following: Change/Insert language from page 12, lines 10f: (d) . . . review panel determines that the training curriculum does not meet the requirements in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission." Delete Lines 18-14 with replaced noted above because needs to record the reviewers' citations given for decision.~~

~~Comment #54: Regarding page 22, lines 24-26, we recommend the following: Change/Add: "If the review panel determines that the training curriculum meets the requirements referenced in this section based on documented findings, the review panel shall recommend approval of the curriculum to the SBE."~~

~~Comment #55: Regarding page 22, lines 27-32, we recommend the following: Change/Add: If the panel determines that the training curriculum does not meet the requirements referenced in this section based on documented findings, the SBE will confer with the owner of the curriculum to correct deficiencies for resubmission" because it provides consistency with other sections (e.g., p.12, lines 10-17 that were modified) of the Administrative Regulations.~~

~~Comment #56: Regarding page 23, lines 1-3, we recommend the following: Delete: reference the change in Comment #55.~~

~~Response to Comments #8, 10, 11, 12, 17, 18, 19, 43, 44, 54, 55, and 56: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #9: Regarding page 11, line 20, we recommend the following: Delete: "reading" Add: "English" because it provides the correct title of the English-Language Arts Content Standards.~~

~~Response: This recommendation is accepted as is. Reading/Language Arts Content Standards shall be replaced with "English-Language Arts Content Standards" throughout the Administrative Regulations.~~

~~Comment #13: Regarding section 11984.6, page 13, lines 27-28, we recommend the following: Change/Insert page 21, lines 1-3: "(C) Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning" because it provides additional clarification and consist statements throughout these Administrative regulations.~~

~~Response: This recommendation is accepted as is. Section 11984.6(a)(8)(C) is revised as follows: "Thirty percent for practice, planning instruction based on data and student work, small and large group discussion, and other participant activities to reinforce learning."~~

~~Comment #14: Regarding page 14, line 28, we recommend the following: Change: "consisting of at least two qualified reviewers . . ." because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #15: Regarding page 15, line 3, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of consistently throughout these Administrative Regulations.~~

~~Response: Section 11984.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #16: Regarding page 15, line 4, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.~~

~~Response: Section 11984.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #20: Regarding section 11985, page 16, line 6-7, we recommend the following: Change: "a high level of English language proficiency and mastery of the California mathematics and English/language arts content standards that emphasize…" and delete "across the curriculum" because it provides clarity of what content standards; no Education Code provision in 99237.5 for "across the curriculum."~~

~~Response: This recommendation is accepted. Section 11985(a) is revised as follows: "Foundational knowledge specifically designed to assist EL pupils to attain a high level of English language proficiency and mastery of the California mathematics and English/language arts academic content standards, that emphasizes the following…."~~

~~Comment #21: Regarding page 16, line 11, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.~~

~~Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.~~

~~Comment #22: Regarding page 16, line 12, we recommend the following: edit: learners because when use as for English learners – capitalization of learner is not required.~~

~~Response: Learners was capitalized in this circumstance because it was included as part of the title "Certified Supplemental Materials for English Learners." As this phrase will no longer be capitalized, "learners" will not be capitalized.~~

~~Comment #23: Regarding page 16, line 12, we recommend the following: Delete language from "to assist . . . them" and use language from Comment #24.~~

~~Response: This recommendation is accepted with modification. Section 11985(a) is revised as follows: "…how to use them to address the instructional needs of all EL pupils[.]"~~

~~Comment #24: Regarding page 16, line 13, we recommend the following: Delete "according" Add: "to meet instructional needs of all EL pupils;" because language should be consistent with Education Code 99237.5(a)(4)(C).~~

~~Response: Education Code section 99237.5 includes several phrases in reference to this recommendation. Section 11985(a) is revised as follows: "…how to use them to address the instructional needs of all EL pupils[.]"~~

~~Comment #25: Regarding page 16, lines 14-15, we recommend the following: Change: "A thorough review of academic content standards and ELD standards relevant to instructing EL pupils; and delete: of the curriculum frameworks because reference to curriculum frameworks is not in Education Code 99237.5(a)(4)(D).~~

~~Response: Although curriculum frameworks are not specifically included in the Education Code section 99237.5, the SB 472 ELPD Advisory Committee recommended that portions of the framework be included in the content of the training. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards[.]"~~

~~Comment #26: Regarding page 16, line 16-17, we recommend the following: Change: "Current and confirmed scientific research as defined in Education Code section 44757.5(j) related to instructing EL pupils because it provides Education Code definition of research.~~

~~Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #27: Regarding page 16, lines 19-20, we recommend the following: Add: "standardized tests, curriculum-embedded assessments, the STAR system, CELDT, Just omissions – both need to be included.~~

~~Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #28: Regarding page 16, lines 21-24, we recommend the following: Change: "(5) Components of ELD in state board adopted instructional materials; and delete: "Essential" because it provides the actual language in Education Code section 99237.5(4)(B) and deletes language that is beyond scope of Education Code.~~

~~Response: The SB 472 ELPD Advisory Committee strongly recommended this section be included in the content of the training. Section 11985(a)(5) is revised as follows: "Essential components of a comprehensive program of ELD that includes actively developing all domains of language, addressing various levels of English proficiency and academic English, while creating a supportive learning environment for language learning."~~

~~Comment #29: Regarding page 16, lines 25-26, we recommend the following: "(b) Instruction designed to meet the academic instructional needs of EL pupils that emphasize the following: Delete: "ELD" because it matches authorizing section 99237.5(a)(1).~~

~~Response: Education Code section 99237.5(b)(6)(7)(8) requires that the training include instruction on the elements outlined in Section 11985(b). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic, instructional needs of EL pupils…."~~

~~Comment #30: Regarding page 16, lines 27-32, we recommend the following: Delete: All (1) – (3) because it attempts to separate learning into two categories: ELD as language study separate from content study.~~

~~Response: Training teachers on deepening connections of ELD study with content study will be an emphasis of the new EL professional development. The SB 472 ELPD Advisory Committee strongly recommended this section be included in the content of the training.~~

~~Comment #31: Regarding page 17, lines 1-13, we recommend the following: Delete: All (4) – (5) and (c) because it is not the language of Education Code section 99237.5(b)(1)-(8).~~

~~Response: Education Code section 99237.5(b)(6)(7)(8) requires the training include instruction on the elements outlined in Section 11985(b)(c). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component.~~

~~Comment #32: Regarding page 17, lines 14-23, we recommend the following: Delete: (1) – (6) because it is not the language of Education Code section 99237.5(b)(1)-(8).~~

~~Response: Education Code section 99237.5(b)(6)(7)(8) requires the training include instruction on the elements outlined in Section 11985(b)(c). In addition, Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 EL PD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(b) outlines each element of the ELD component.~~

~~Comment #33: Regarding page 16, lines 1-23, we recommend the following: Insert the language in Education Code section 99237.5 (c) (1) – (8) because it provides understandable content for training curriculum and matches the authorizing Education Code section.~~

~~1.Vocabulary development;~~
~~2.Writing development;~~
~~3.Core academic standards and English Language Development Standards;~~
~~4.Comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs;~~

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~~5.Analyzing achievement of English learners to improve pupil performance through the use of multiple measures including state and local pupil assessment instructions and the Standardized Testing and Reporting (STAR) Program; English Language Development targeted to the pupil's English language proficiency level as measured by the California English Language Development Test;~~
~~6.Early intervention techniques for pupils experiencing difficulty; and~~
~~7.Instructional strategies to teach essential content to address the varied learning needs of English learner pupils, including the different proficiency levels of English language learner pupils as determined by the California English Language Development Test.~~

~~Response: Education Code is generally not to be restated in regulations. The professional development will include legislated requirements under Education Code section 99237.5 and requirements included in Section 11985. Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(a) outlines each element of foundational knowledge component,(b) outlines each element of the ELD component, and (c) outlines each element of the reading/language arts and content area instruction component.~~

~~Comment #34: Regarding 11985.5, page 18, lines 2-3, we recommend the following: Change: "consisting of at least two qualified reviewers . . ." because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #35: Regarding page 18, line 7, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.~~

~~Response: Section 11985.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #36: Regarding page 18, line 8, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.~~

~~Response: Section 11985.5(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #37: Regarding page 18, line 11, we recommend the following: Add: "(4) Current and confirmed scientific research as defined in Education Code section 44757.5(j)" because it provides Ed. Code definition of research.~~

~~Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #38: Regarding page 18, line 13, we recommend the following: Edit: lower case for certified s supplemental materials because it is not an official title.~~

~~Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case.~~

~~Comment #39: Regarding page 18, lines 14-15, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.~~

~~Response: This recommendation is accepted as is. Section 11985.5(b)(6) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils."~~

~~Comment #40: Regarding page 18, lines 18-32, we recommend the following: Delete all (1) – (6) and add language from Education Code 99237.5 (c) (1) – (8) because it provides understandable content for training curriculum and matches the authorizing Education Code section.~~

~~1.Knowledge and understanding of vocabulary development;~~
~~2.Knowledge and understanding of writing development;~~
~~3.Knowledge and understanding of core academic standards and English Language Development Standards;~~
~~4.Knowledge and understanding of comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs;~~
~~5.Knowledge and understanding how to analyze achievement of English learners to improve pupil performance through the use of multiple measures including state and local pupil assessment instructions and the Standardized Testing and Reporting (STAR) Program;~~

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~~6.Knowledge and understanding of English Language Development for targeting instruction at the pupil's English language proficiency level as measured by the California English Language Development Test;~~
~~7.Knowledge and understanding of early intervention techniques for pupils experiencing difficulty; and~~
~~8.Knowledge and instruction of instructional strategies to teach essential content to address the varied learning needs of English learner pupils, including the different proficiency levels of English language learner pupils as determined by the California English Language Development Test.~~

~~Response: Education Code is generally not to be restated in regulations. The professional development will include legislated requirements under section 99237.5 and requirements included in Section 11985. Education Code section 99237.5(b)(9) allows the training to include, "Any additional instruction and training areas that may be considered to improve pupil learning and achievement based upon the needs of participating teachers." The SB 472 ELPD Advisory Committee recommended the 40 hour follow-up training have three essential components: foundational knowledge, ELD instruction, and reading/language arts and content area instruction. Section 11985(a) outlines each element of foundational knowledge component,(b) outlines each element of the ELD component, and (c) outlines each element of the reading/language arts and content area instruction component.~~

~~Comment #41: Regarding page 18, line 24, we recommend the following: Add/Modify (3): Knowledge and understanding of current and confirmed scientific research as defined in Education Code 44757.5(j) related to the instructional practices for mathematics or reading/language arts as related to EL pupils because it offers a consistent outcome identified consistently in the Administrative Regulations.~~

~~Response: This recommendation is accepted in part. The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #42: Regarding page 19, lines 1-13, we recommend the following: Delete (6) – (11) because it does not match and goes beyond the requirements for training curriculum content authorized in Education Code Sections 99237.5(a)(4)(A)-(D) and 99237.5(b)(1)-(8).~~

~~Response: Section 11985.5, lines 1-13, outlines a part of the requirements to be a qualified review of the EL professional development. The SB 472 ELPD Advisory Committee strongly recommended the requirements included in this section.~~

~~Comment #45: Regarding Section 11985.6, page 20, lines 26-28, we recommend the following: Change: "(A) Thirty percent for presentation and direct instruction on current and confirmed research as defined by Education Code 44757.5(j), mathematics and English/language arts content standards and ELD Standards, and state board adopted K-8 or local board 9-12 adopted core and ancillary EL support materials;"~~

~~because Education Code 99237.5 does not reference EL theoretical framework content; and there is no approved, adopted framework among voluminous known frameworks.~~

~~Response: Based on this and other public comment recommendations, Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed scientific research as related to the effective instruction of English learners, including the use of level of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Comment #46: Regarding page 21, lines 29-32, we recommend the following: Change: "(B) Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards and ELD Standards, and academic language" and Delete: lines 30-32 because forty percent for demonstrations and modeling on how to differentiate instruction to meet the needs of English learners is needed.~~

~~Response: This recommendation is accepted as is. Section 11985.6(a)(8)(B) is revised as follows: "Forty percent for demonstrations and modeling of key routines to illustrate instructional strategies that include whole and small group differentiated instruction by English language proficiency levels to ensure EL pupils' mastery of mathematics and English/language arts content standards, ELD standards, and academic language proficiency."~~

~~Comment #47: Regarding page 21, lines 1-3, we recommend the following: Change: "(C) Thirty percent to adjust for change on page 20.~~

~~Response: This recommendation is accepted as is. Section 11985.6(a)(8)(C) is revised as follows: "Thirty percent for practice…."~~

~~Comment #48: Regarding page 21, line 22, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.~~

~~Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.~~

~~Comment #49: Regarding page 22, line 9, we recommend the following: Change: "at least two qualified reviewers" because it is important to have consistency in the application of judgments of compliance with curriculum training requirements for 5-day training; and this was a requirement for AB 466 reviews.~~

~~Response: This recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers.~~

~~Comment #50: Regarding page 22, lines 16, we recommend the following: Add: "(1) mathematics and English/language arts content standards" because it reinforces that these are the two academic content standards for the purpose of these Administrative Regulations.~~

~~Response: Section 11985.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #51: Regarding page 22, line 17, we recommend the following: Add: "(2) mathematics and reading/language arts curriculum frameworks" because it reinforces that these are the two specific curriculum frameworks for the purpose of these Administrative Regulations.~~

~~Response: Section 11985.6(b)(1)(2) requires a qualified reviewer to "have knowledge of information related to mathematics or reading as applicable, including: (1) Academic content standards; (2) Curriculum frameworks." The reference to mathematics and English/language arts content standards is already included in these regulations.~~

~~Comment #52: Regarding page 22, line 22, we recommend the following: Edit: lower case for certified supplemental materials because it is not an official title.~~

~~Response: This recommendation is accepted as is. Any reference to certified supplemental materials will be in lower case as it is not an official title.~~

~~Comment #53: Regarding page 22, line 23, we recommend the following: Change/Add: "(5) Linkage between assessment and curriculum with the use of standardized tests, curriculum-embedded tests, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils" because it provides consistency of reference to relevant assessments related to EL pupils throughout these Administrative Regulations.~~

~~Response: This recommendation is accepted as is. Section 11985.6(b)(6) is revised as follows: "Linkage between curriculum and assessment with the use of standardized tests, curriculum-embedded assessments, the STAR system, CELDT, and CAHSEE for diagnostic information related to EL pupils."~~

~~Martha Hernandez, Director of Curriculum, Instruction and Continuous Improvement, Ventura County Office of Education, in an e-mail dated May 25, 2007, submitted twelve comments:~~

~~Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELL's for teachers instructing these students, within the 40 of the 80 follow up hours. It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development.~~

~~The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted:~~
~~"Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners."~~

~~The lettering of the subsequent subsections will need to change as well.~~

~~Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English Learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Comment #2: Regarding Sections 11985.5(b), page 18 & 11985.6 (b), page 22, it is recommended that a call for the establishment of a review panel be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. The SB 472 Advisory Committee is comprised of individuals representing a broad spectrum of disciplines and possessing the knowledge, expertise and skills necessary to perform the important responsibilities of approving or disapproving a training curriculum and training providers. Why reinvent the wheel when a capable cadre of individuals is already available to do these important activities. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.~~

~~Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.~~

~~Comment #3: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative~~

~~assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."~~

~~Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #4: Regarding Section 11985(b), page 16, line 25 the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, that emphasizes the following...."~~

~~Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following...."~~

~~Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."~~

~~Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."~~

~~Comment #6: Regarding Section 11985.5(c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development".~~

~~Response: This recommendation is accepted. Section 11985.5(c)(3). Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: "Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, including how to apply this research to classroom practice to increase student learning and language acquisition[.]"~~

~~Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2-5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.~~

~~Response: The intent of the ELPD is to deepen the knowledge and application of the initial forty hour SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) is renumbered to Section 11985.5(c)(6) and will not be deleted. However, it is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve[.]"~~

~~Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Comment #10: Regarding Section 11984.5, Curriculum Review of the Initial Forty Hours, page 12, line 17, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. It is also recommended that language be inserted that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Comment #12: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, the same recommendation is made with respect to inserting language requiring the reason(s) for disapproving or approving a prospective provider's written proposal as well as providing a written letter stating the reasons for disapproval to rejected providers.~~

~~Response to Comments #8, 10, and 12: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel~~

~~deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #9: Regarding Section 11983, page 8, line 9, Education Code Section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.~~

~~Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."~~

~~Comment #11: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students. It is recommended to delete the words "may include" and insert "including."~~

~~Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Sandra Ceja, Director, Reading First, Regional Technical Assistance and Reading Implementation Centers, San Diego County Office of Education, in an e-mail dated May 25, 2007, submitted twenty-eight comments:~~

~~Comment #1: Regarding Section 11985 Training Curriculum for English Learner Professional Development, overall, this section has a lot of redundancy and isn't very clear. It appears that there are three main sections:~~

~~1.The first section sets the common resources (standards, frameworks, assessments, instructional materials) that will be used and embedded into the training.~~
~~2.The second component specifically addresses effective instruction to provide equitable access to grade-level content area instruction, in Reading/Language Arts or Mathematics, including effective use of the Universal Access components as well as planning and delivering core instruction lessons.~~
~~3.The third component addresses the understanding of specific language instruction for EL's, including levels of language proficiency, analysis of student work, effective instruction to promote language acquisition, and use of the most current research and approved instructional materials.~~

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~~Comment #2: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training, and include the following core components:~~

~~1.Standards: Academic content standards and English Language development standards, with an emphasis on how they interrelate across the four domains of listening, speaking reading and writing to simultaneously allow for equitable access to grade level content and develop language proficiency.~~
~~2.Frameworks: Current curriculum frameworks, with particular emphasis on the Universal Access components and sections that highlight the unique needs of English Learners.~~
~~3.Research: Current, scientifically-based research related to effective instructional practices to provide equitable access for English Learners to content, using the SBE approved instructional materials and to provide English Language Development that will support EL's in achieving proficiency in English in the most effective and efficient manner possible.~~
~~4.Assessment: Use of standardized assessment data, including the CELDT, CST, CAHSEE and other STAR assessment components, to monitor and assure the progress of English Learners to reach proficiency in English and grade level content.~~

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~~Comment #3: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training to support English Learners in accessing core, content area instruction using SBE approved curriculum:~~

~~1.Effective use of the Universal Access components of the SBE approved instructional programs designed to provide English Learner access to core, content area instruction.~~
~~2.Deepen and extend the content knowledge of participants to identify and efficiently teach the linguistic structures embedded in the SBE approved instructional programs. This would include a thorough review of linguistic features, with emphasis on contrastive analysis that leads to the transfer of skills from one language to another.~~
~~3.Effective instructional strategies to support comprehension and access to content area instruction, including text and lesson analysis for language and content. Participants would learn and practice planning lessons to address and support the needs of students at various levels of English proficiency.~~
~~4.Analysis of oral and written language production of English Learners to inform and design effective instruction.~~

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~~Comment #4: The 40-hour ELPD training should build upon and extend from the initial 40-hour SB472 training to support English Learners in reaching English Language proficiency in the most efficient manner, including:~~

~~1.A thorough understanding of the different levels of English Language proficiency and how to plan instruction that is designed to promote advancement from each level.~~
~~2.Current, scientifically-based research related to the effective instruction of second-language learners. Strategies to use the Certified Supplemental Materials for English Learners as tools for ELD instruction. Effective use of ELD materials that are aligned to the core curriculum in several program options in subsequent adoptions, as defined in the criteria in the new Reading/Language Arts Framework.~~
~~3.Development of vocabulary and language for purposeful oral and written communication that emphasizes structured opportunities for practice.~~

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~~Response to Comments #1-4: Education Code section 99237.5 and Sections 11985-11985.6 included in the regulations outline the content of the training and requirements for training providers' proposal. These four comments capture the essence of the 40 hours English Learner Professional Development.~~

~~Comment #5: Regarding Section 11985 New (a), page 16, lines 5-6, "Foundational knowledge specifically designed to assist EL pupils to attain…." This use of "foundational knowledge" is not clear or specifically defined and could be interpreted in a variety of ways. It is also unclear how such "foundational knowledge" could be "designed to assist EL pupils…." There is current, reliable research that is available~~

~~regarding the instruction of EL's, including the recent EdSource document, the National Literacy Panel work, the Center for Instruction document (Research-based Principles for Teaching EL's), and even some pieces in a recent Elementary School Journal publication. A bibliography or glossary to define terms would be needed if there is such defined "foundational knowledge that is aligned to current, reliable research."~~

~~Response: The term "Foundational Knowledge" was coined by the SB 472 ELPD Advisory Committee and is defined in section 11985(a). The criteria of this component is included in Section 11985(a)(1-5).~~

~~Comment #6: Regarding Section 11985 New (a), Part (2), page 16, lines 14-15, "A thorough review of the curriculum frameworks, academic content standards and ELD standards relevant to instructing EL pupils" The framework and the standards are relevant for ALL students. Better language may be: A thorough review of the academic content and ELD standards and current curriculum frameworks, with particular emphasis on specific sections which address the specialized needs of English Learners to provide equitable access to grade level standards and approved curriculum.~~

~~Response: This recommendation is accepted in part. Section 11985(a)(2) is revised as follows: "A thorough review of the specific sections of the curriculum frameworks that pertain to EL pupils, academic content standards, and ELD standards."~~

~~Comment #7: Regarding Section 11985 New (a), Part (2), page 16, lines 16-17, the Education Code clearly defines "scientifically based research" and perhaps the word current should be inserted (Current, scientifically-based research") and an approved list of research should be cited relative to instruction of English Learners. There is too much margin for interpretation.~~

~~Response: The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #8: Regarding Section 11985 New (a), Part (4), page 16, lines 18-20, perhaps CELDT is implied in the STAR system, but it might be valuable to list it individually, particularly because the initial 40-hour training does not require a review of CELDT.~~

~~Response: Education Code section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #9: Regarding Section 11985 New (a), Part (5), page 16, lines 21-24, line 23 uses "English fluency" which could be confused or misinterpreted with reading fluency and correct/common language uses the word, proficiency. Better language:" addressing the various levels of English proficiency."~~

~~Response: This recommendation is accepted. Section 11985(a)(5) is revised as follows: "Essential components of a comprehensive program of ELD that include actively developing all domains of language, addressing various level of English proficiency and academic English, while creating a supportive learning environment for language learning."~~

~~Comment #10: Regarding Section 11985 New (b), Page 16, lines 25-26, a comma is needed "ELD instruction designed to meet the academic, instructional needs of EL pupils…."~~

~~Response: SBE does not believe a comma is needed, particularly in light of newly added language.~~

~~Comment #11: Regarding Section 11985 New (b), Part (1), page 16, lines 27-29, the components of the various programs that were designed to support English learners are generally not collided components, but are identified as Universal Access components for English Learners. These components are not designed to help teachers understand ELD content, but to help them more effectively teach English Learners. The new Reading/Language Arts/English Language Development Framework Criteria for programs will include ELD for some of the program options. Use of English Language Development materials (currently supplemental and aligned to core in the future) is addressed in subsequent sections. Better language: Effective use of the ELD Universal Access components of the SBE adopted instructional materials for kindergarten through grade eight specifically designed to help teachers of EL pupils understand ELD content effectively teach English Learners.~~

~~Response: Education Code section 99237.5 (b)(4) requires that the training include, "Comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs." This portion of the statute already makes clear the use of the universal access components and does not need to be added to these regulations.~~

~~Comment #12: Regarding Section 11985 New (b), Part (2), page 16, lines 30-31, the research needs to be current, the word "findings" is unnecessary, and instructional practices are not for "learning" but to support the learner, or to support effective instruction. Better language: "Current scientifically-based research findings related to the instructional practices for effective instruction of second language learners."~~

~~Response: This recommendation is accepted in part. The language for this section and all others pertaining to "scientifically based research" is revised as follows: "current and confirmed scientific research."~~

~~Comment #13: Regarding Section 11985 New (b), Part (3), page 16-17, lines 32-1, we need teachers to know how to plan and deliver effective instruction for English Learners. Better language: "A thorough understanding of levels of English language proficiency and how to plan and deliver instruction for each level."~~

~~Response: Education Code section 99237.5(a)(4)(D) requires the following: "It shall be capable of delivering a thorough knowledge of the core academic content standards using the English language development standards to deliver instruction, as applicable." Coupled with the criteria included in Section 11985, the requested recommendation is extensively included in the training criteria.~~

~~Comment #14: Regarding Section 11985 New (b), Part (4), page 18, lines 2-3, the legislation states that the provider should include strategies for using the materials. Each district has different materials and has allotted a different amount of time for supplemental ELD. The language should also include something about the framework program options for the new adoptions which include aligned ELD. Once those are available, we would want specific support for teachers in planning and using them. "Strategies to effectively and efficiently use Certified Supplemental Materials for English Learners as tools for ELD instruction."~~

~~Response: Education Code section 99237.5 (a)(4)(C) requires the following: "It shall include strategies to use supplementary materials with the state board adopted program to meet the needs of English language learner pupils." Meeting the instructional needs of ELLs in language and literacy is the primary purpose for including the supplementary materials in the statute. Section 11985(b)(4) is revised as follows: "The planning of ELD instruction to effectively and efficiently use ELD standards and certified supplemental materials for English learners as tools for ELD instruction[.]"~~

~~Comment #15: Section 11985 New (d), Part (4), lines 19-20 is worded awkwardly and doesn't make sense as written. "Effective comprehension and instructional strategies to teach essential content" Better wording: Instructional strategies to improve comprehension and access to core content.~~

~~Response: Section 11985(d)(4) has been deleted. Education Code section 99237.5(a)(4)(A) already includes this provision and states the training "shall be sufficient in scope, depth, and duration to fully equip teachers with comprehensive instructional strategies using state board adopted instructional materials, including the universal access components of the state board adopted programs."~~

~~Comment #16: Regarding Section 11985.5(b), page18, lines 4-5, we can't afford to have reviewers that only have "knowledge of information related to math or reading, they need to "To be a qualified reviewer, a reviewer shall have experience teaching EL pupils and have knowledge of information related to teaching mathematics or reading, as applicable…."~~

~~Response: Section 11985.5(b)(1-6) references the extensive qualification to be a reviewer of the ELPD program. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.~~

~~Comment #17: Regarding Section 11985.6(a), Part (8) Section (A), as it currently reads: "Thirty percent for presentation and direct instruction of EL theoretical framework, research, and academic content standards while using ELD standards to deliver instruction." This first content objective should be based on supporting EL access to core, grade-level, content-area instruction. As it reads, the state would need to define what the theoretical framework for teaching English learners is. There is current research, which should inform instruction for English Learners. Knowledge of the ELD standards and levels of proficiency should be used to scaffold instruction. Better language: Thirty percent for presentation and direct instruction of current research as related to the effective instruction of English Learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction.~~

~~Response: This recommendation is accepted as is. Section 11985.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of current and confirmed research as related to the effective instruction of English learners, including the use of levels of language proficiency and the ELD standards to scaffold instruction, allowing access to core, grade-level content area instruction."~~

~~Comment #18: Regarding Section 11981(a), page 1, lines 23-30, Funding Allocation, the previous legislation clarified that any district that was not fully reimbursed for training provided during one fiscal year, would be first eligible for reimbursement in the subsequent year. This is not clear in the proposed regulations for funding. It puts districts in a difficult position when they would like to have all of their teachers trained to not be sure if they will ever be reimbursed.~~

~~This is good clarification to indicate that the funds should be used to improve the implementation of the curriculum through additional professional development~~

~~Response: Funding under this statute is described in Education Code section 99234.~~

~~Comment #19: Regarding Section 11982 (a), page 6, lines 7-11, Local Education Agencies' Assurances of Compliance, "The professional development was delivered by a provider or providers approved…." While the requirement to use an approved provider is clearly in the law, striking this language may make it appear that an approved provider or providers is not required. With the upcoming adoption in language arts, the language may even need to be clarified by stating that a "currently approved provider" is required.~~

~~Response: Education Code section 99237(a)(1) requires that, "an LEA submit a certified assurance signed by the appropriate agency official and approved in a public session by the governing body of the agency to the state board that it contracted with a provider whose training curriculum has been SBE approved. Both the provider and curriculum must be SBE approved.~~

~~Comment #20: Regarding Section 11982 (b), page 6, lines 12-18, "The local educational agency (LEA) has or will have by the commencement of training, instructional materials…" While the requirement to use approved instructional materials is clearly in the law, striking this language may make it appear that any instructional materials are qualified. With the upcoming adoption in language arts, the language may even need to be clarified by stating that a "currently approved curriculum" is required.~~

~~Response: Education Code section 99237(a)(3)(A) requires that an LEA "provide each pupil with instructional materials that are aligned to the state content standards in mathematics and English language arts no later than the first day of the first school term that commences 12 months or less after those materials are adopted by the state board in the case of instructional materials for kindergarten and grades 1 to 8, inclusive, or by the governing board of the school district in the case of instructional materials for grades 9 to 12, inclusive." Once the new adoptions occur, the former adoptions are no longer considered to be SBE adopted instructional materials. LEAs will need to purchase the new SBE adopted instructional materials to be considered eligible for the training under this provision of law.~~

~~Comment #21: Regarding Section 11983.5(b), page 9, Item 1, lines 5-6 Definition of Instructional Materials, "The instructional materials were purchased by the district prior to the 2002 Reading/Language Arts/English Language Development Adoption (RLA/ELD)." This section does not reference mathematics materials and also needs to emphasize currently adopted materials, as there are new programs coming into place before the professional development legislation ends.~~

~~Response: It is anticipated that Section 11983.5 will be substantially revised and/or deleted once the adoptions in mathematics and language arts occur. Until that time, Section 11983.5 will remain as is in order to provide for those districts utilizing its provisions.~~

~~Comment #22: Regarding Section 11984 (b), page 10, lines 10-11 Training Curriculum for the Initial Forty Hours, the word current needs to be inserted: "A thorough review of the current curriculum framework and academic content standards…." We need to emphasize the use of the newest framework versions.~~

~~Comment #24: Regarding Section 11984.5 (b), page 11, Part (2), line 9 Curriculum Review of the Initial Forty Hours, the word current needs to be inserted: "Current curriculum frameworks." We need to emphasize the use of the newest framework versions.~~

~~Response to Comments #22 and 24: Whenever referenced, the curriculum frameworks and academic content standards always refer to the most current.~~

~~Comment #23: Regarding Section (e) Part (2) line 20, Universal Access needs to be capitalized, as they are specific components of the framework criteria and the adopted programs.~~

~~Response: These regulations as well as Education Code referenced in this program do not capitalize the term "universal access" even though they are specific components of the framework criteria and adopted programs.~~

~~Comment #25: Regarding Section 11984.5 (c), page 11, Part (1), lines 20-21, providers should have knowledge of ALL of the mathematics or reading/language arts standards, because they co-articulate and build upon one another. They also need to be able to convey to the participants how to teach the standards, we are not assessing the provider's ability to teach the standards. Better language: "Knowledge of all mathematics or reading/language arts standards and how to effectively teach such standards."~~

~~Response: Section 11984.5(b)(1-5) references the extensive qualification to be a reviewer of the initial training. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.~~

~~Comment #26: Regarding Section 11984.6 (a), page 13, Part (8), Subsection (A), lines 21-23 Training Providers of the Initial Forty Hours, the language needs to clarify that the instruction needs to focus on the approved materials, including the Universal Access components. "Ancillary materials" is too open-ended. We have some publishers that have focused time and attention on additional products that they sell that are not part of the approved curriculum and are not based on Scientifically Based Reading Research. Better language: "Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components including Universal Access components."~~

~~Response: This recommendation is accepted as is. Section 11984.6(a)(8)(A) is revised as follows: "Thirty percent for presentation and direct instruction of academic content standards, curriculum framework, and approved instructional material's core and ancillary components including Universal Access components."~~

~~Comment #27: Regarding Section 11984.6 (a), page 14, Part (11), Subsection (A), lines 1-3, Training Providers of the Initial Forty Hours Providers should be directed to directly involve the LEA leadership in the planning and implementation of the institutes, but a provider cannot ensure attendance of any LEA staff, particularly when the participants have multiple, statewide opportunities to attend institutes. Better language may be: "~~

~~A description of how it will collaborate with the LEA in planning and delivering the training which also ensures that the superintendent or his/her designee will be present during the training is informed about the training content and is prepared to support implementation."~~

~~Response: The SBE supports the recommendation of the SB 472 ELPD Advisory Committee that the presence of district leadership is critical to successful implementation of effective professional development. According to these regulations, the superintendent may designate someone other than him/herself as the one present at the training.~~

~~Comment #28: Section 11985.5(c), page 18, Curriculum Review for ELPD requires the review panel to review all trainings for an extensive list of qualities and the criteria should require that those SBE-selected panel members be able to demonstrate thorough knowledge and experience with all of the components for which the trainings will be reviewed. The SBE-selected panel should demonstrate direct support and experience in working with teachers, schools or districts to actively implement the Essential Program Components (EPC's), under which a large majority of the target population identified in the funding priority criteria will be operating. They must demonstrate a belief system that English Learners must be provided equitable access to core curriculum at every grade level and specific instruction to reach the highest levels of receptive and productive language and that these things are possible with adequate instruction and scaffolding. With this in mind, additions and clarification regarding the selection committee [Section (b)], to be designated by and acting under the SBE, should add at minimum the following:~~

~~1.The SBE-selected review panel members should be highly informed about and supportive of the current state and federal initiatives for program improvement in California. They should demonstrate experience working directly with teachers, schools or districts to implement the standards, frameworks and instructional materials with English Learners. If the review panel members are not highly informed about and supportive of the Essential Program Components (EPC's) that are currently being implemented in the schools and districts in California, they will not have adequate background to support the target population that is identified for funding priority in SB472.~~

~~2.The SBE-selected review panel members should present letters of recommendation from their district or county level administrators who can attest to the work that the individual has done to directly support the implementation of the approved curriculum, including the EL Universal Access components. The criterion for the committee does not currently require that the panel members know or have experience with the implementation of the adopted curriculum programs; it only requires general knowledge about the frameworks, standards, research and assessment.~~

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~~3.The SBE-selected review panel characteristics do not include a requirement for the panel members to have been an instructor of or participant in AB466/SB472 or AB75/AB430 professional development. In order to have a knowledgeable panel who can review the content for the ELPD institute, there must be a critical mass of individuals who have deep knowledge and experience with the initial 40-hour training in order to adequately determine that the ELPD builds from and connects to the initial 40-hour institute.~~

~~4.The SBE-selected review panel should demonstrate knowledge and experience with all of the components listed as core requirements for the training to be approved in Section (c).~~

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~~Response: Section 11985.5(b)(1-6) references the extensive qualification to be a reviewer of the ELPD program. As part of the selection process, the review panel applicant will be required to provide evidence that the applicant has the requisite knowledge to be a qualified reviewer. This section will not be revised.~~

~~Pamela Spycher, Senior Research Associate Director, English Learners and the Language Arts (ELLA), Comprehensive School Assistance Program, WestEd, in an e-mail dated May 25, 2007, submitted two comments:~~

~~Comment #1: Regarding Section 11985 Training Curriculum for English Learner Professional Development, overall, this section appears to incorporate some critical components of the kind of professional development teachers working with EL students' need. However, the section is a bit unwieldy and unclear. For example, while it is fundamental that the EL PD training should build upon the initial 40-hour SB 472 training, this is not explicitly stated in the section. Vague language, such as "foundational knowledge" (a) and "essential components of a comprehensive program of ELD" (a5) may lead to confusion for providers as there are not widely agreed upon definitions of these terms. If these terms are to be used, a glossary would be helpful.~~

~~Response: Education Code section 99237.5(d) states that to be eligible for the ELPD training, a teacher shall have completed 40 hours of training pursuant to Education Code section 99237. In addition, section 99237.5(e) states that a teacher has the option of allowing participation in the ELPD training to fulfill fifty percent of the 80 hours of follow-up training under Education Code section 99237. In conjunction, these statutes indicate that the ELPD training is intended to build upon the initial 40 hours of training. Regulations are not required to restate the statute.~~

~~SBE considers the terminology included in the regulations sufficiently clear. In the event terminology proves to be unclear, SBE will consider amending the regulations to clarify terminology.~~

~~Comment #2: The EL PD training should extend teachers' knowledge about language development in a particular content area and enhance their pedagogical skills to provide effective instruction to EL students. Accordingly, the training should not repeat the initial 40-hour training, but focus on elements that were not addressed or not deeply addressed in the initial 40-hour training. These elements include:~~

~~1.Using CELDT and other language assessment data, including formative assessment, to inform instructional practice and to track student progress over time,~~
~~2.Instructional strategies that address the language demands of core content and provide structured and supported opportunities for students to practice, both orally and in writing, new ways of using school language,~~
~~3.Current research addressing second language development and instruction that is directly relevant to the core content area in the training, Strategic analysis of the academic content standards, ELD standards, and current curriculum frameworks and how they interrelate with the core curriculum,~~
~~4.Ways to use the Universal Access handbooks to provide access to the core content for students at different levels of English linguistic proficiency, and~~
~~5.Planning and effectively delivering lessons to EL students, including attention to student engagement, language development objectives, and evaluating the effectiveness of lessons.~~

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~~Response: The essence of each of these recommendations is included in either Section 11985 or Education Code section 99237.5. Accordingly, it is anticipated that the essence of these recommendations will be included in the ELPD training.~~

~~Shelly Spiegel Coleman, Chairperson, Californians Together, in a fax dated May 25, 2007, submitted twelve comments:~~

~~Comment #1: Regarding Section 11985.6, page 18, line 32, SB 472 was amended to include, among other provisions, professional development specific to ELL's for teachers instructing these students, within the 40 of the 80 follow up hours. It is critical therefore that the providers who will be training the trainers have expertise and experience in developing and providing this type of professional development. The proposed regulations do not ensure that the training providers possess the knowledge and experience in developing and implementing a successful training program specific to English learners. Therefore, it is recommended that a new subsection (a) be inserted: "Evidence of providing EL professional development that addresses teaching in multi-subject, self-contained classrooms or discipline specific classrooms, linguistically and culturally diverse student population with attention to all four domains of language specific to the development of language and literacy for English learners."~~

~~The lettering of the subsequent subsections will need to change as well.~~

~~Response: Education Code section 99237.5(a)(A-D) outlines the quality standards that providers of the must possess to be considered as SB 472 English Learner professional development providers. The criteria and provisions included in Sections 11985 through and 11985.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~Comment #2: Regarding Sections 11985.5(b), page 18 & 11985.6 (b), page 22, it is recommended that a call for the establishment of a review panel be comprised of one or more reviewers designated by the State Board of Education (SBE) for the purpose or reviewing and approving the training providers and the training curriculum. The SB 472 Advisory Committee is comprised of individuals representing a broad spectrum of disciplines and possessing the knowledge, expertise and skills necessary to perform the important responsibilities of approving or disapproving a training curriculum and training providers. Why reinvent the wheel when a capable cadre of individuals is already available to do these important activities. It is recommended that the SBE utilize the SB 472 Advisory Committee instead of the review panels.~~

~~Response: The first part of this recommendation is accepted as is. The review panel for the initial training and the English learner training will now consist of two or more reviewers. The response to the second part is not accepted. Although it is anticipated that members of the Advisory Committee will also function as reviewers on the ELPD review panel, other qualified individuals will also be appointed to function in this capacity.~~

~~Comment #3: Regarding Section 11985(a)(4) Training Curriculum for English Learner Professional Development, page 16, lines 18-20, it is recommended that language be inserted that includes other types of significant assessments. Inclusion of other types of assessments, in addition to standardized tests, is important and necessary in order to be better able to understand and utilize all assessments administered to ELL students. The following language is recommended: "(4) Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language and literacy, multiple measures both formative and summative assessments, including but not limited to, the CELDT, standardized tests, the STAR system and the CAHSEE; and."~~

~~Response: Section 99237.5(b)(5) requires that instruction be included pertaining to analyzing and discussing multiple assessments. The public recommendation is accepted in part. Section 11985(a)(4) is revised as follows: "Readings and discussions of other pertinent materials related to EL pupils which address the value of the diagnostic nature of language, standardized tests, the STAR system, the CELDT, curriculum embedded assessments, and the CAHSEE[.]"~~

~~Comment #4: Regarding Section 11985(b), page 16, line 25 the insertion of the word "language" would ensure that both English language acquisition and literacy needs are being addressed for students who are English learners. Therefore the following revision is recommended: "(b) ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following….”~~

~~Response: This recommendation is accepted as is. Section 11985(b) is revised as follows: "ELD instruction designed to meet the language and academic instructional needs of EL pupils, which emphasizes the following….”~~

~~Comment #5: Regarding Section 11985(d)(1), page 17, line 13, the insertion of new language ensures that all four areas critical to English acquisition and literacy are developed, not just vocabulary and writing development as proposed. Therefore the following revision is recommended: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development and writing development."~~

~~Response: This recommendation is accepted as is. Section 11985(d)(1) is revised as follows: "Knowledge of reading/language arts instruction to support EL pupils in oral language development, vocabulary development, and writing development."~~

~~Comment #6: Regarding Section 11985.5 (c)(3), Curriculum Review of English Learner Professional Development, page 18, line 25, the following recommendation would ensure that the training curriculum to be used by providers of teachers of ELL students will also have knowledge of English language development. This is equally important in light of the fact that you will have teachers instructing ELL students with no or very little knowledge of English. It is recommended that the subsection be revised to read: "(3) Knowledge and understanding of current EL research with regard to teaching mathematics, language arts and English language development."~~

~~Response: This recommendation is accepted. Section 11985.5(c)(3). Section 11985.5(c)(5) is deleted. Section 11985.5(c)(3) is revised as follows: “Knowledge and understanding of current and confirmed scientific EL research with regard to teaching mathematics or reading/language arts and English language development, and how to apply this research to classroom practice to increase student learning and language acquisition.”~~

~~Comment #7: Regarding Section 11985.5(c)(7), page 19, lines 2 – 5, it is recommended that this subsection be deleted and re-letter subsequent subsections. This section is specific to the "40 follow up" hours of ELL professional development. The content of the proposed subsection (c)(7) is the content that should be contained in the first/initial 40 hours or the other 40 hours of follow up. The 40 hours specific to ELL professional development will barely provide the time or content specific to ELL instruction.~~

~~Response: The intent of the ELPD is to deepen the knowledge and application of the initial SB 472 training. Providing context during the ELPD training with respect to the frameworks is essential. Section 11985.5(c)(7) will not be deleted but is revised as follows: "Knowledge and understanding of how to teach the ELD components of the SBE adopted instructional materials for kindergarten through grade eight or standards-aligned instructional materials for grades nine through twelve."~~

~~Comment #8: Regarding Section 11985.5(e), page 19, line 24 and 11985.6(d), page 23, line 3, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. Insert language that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Comment #10: Regarding Section 11984.5, Curriculum Review of the Initial Forty Hours, page 12, line 17, it is recommended that language be inserted in subsection (e) that would require the panel to also provide to the State Board of Education (SBE) the reason(s) for their recommendation of approval or disapproval of a curriculum. It is also recommended that language be inserted that would require the SBE to forward a written letter to those entities whose curriculum was disapproved and the reason(s) for disapproval. Requiring the submission of why a curriculum was disapproved or approved is good public policy and provides for important transparency to the process.~~

~~Comment #12: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, the same recommendation is made with respect to inserting language requiring the reason(s) for disapproving or approving a prospective provider's written proposal as well as providing a written letter stating the reasons for disapproval to rejected providers.~~

~~Response to Comments #8, 10, and 12: Sections 11984.5(e) and 11985.5(e) regarding the review panel's recommendation for approval or disapproval of a prospective provider's curriculum is substantially revised as follows: "If the review panel determines that the prospective provider's curriculum does not meet the requirements of this section based on documented findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's curriculum is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider's curriculum to be approved."~~

~~Sections 11984.6(d) and 11985.6(d) regarding the review panel's recommendation for approval or disapproval of a prospective provider's written proposal is substantially revised as follows: "If the review panel determines that the prospective provider's written proposal does not meet the requirements of this section based on documented~~

~~findings, the review panel shall confer with the prospective provider to correct deficiencies for resubmission. The review panel shall confer with the prospective provider on as many occasions as the review panel deems productive. Thereafter, if the prospective provider's written proposal is deemed to meet the requirements of this section based on documented findings, the review panel shall recommend to the SBE that the prospective provider be approved as a provider."~~

~~Comment #9: Regarding Section 11983, page 8, line 9, Education Code Section 99237(a)(3)(A)(B) refers to English Language arts and not "reading/language" as proposed.~~

~~Response: Section 11983(b) is revised as follows: "An LEA participating in the program must provide each pupil with currently adopted instructional materials that are aligned to the state content standards in English/language arts in accordance with Education Code section 99237(a)(3)(A) and (B)."~~

~~Comment #11: Regarding Section 11984.6, Training Providers of the Initial Forty Hours, page 14, line 8, requiring a prospective provider's experience and qualifications regarding training curriculum for special education students or students who are English learners should be required not permissive, as is currently proposed. These are two student sub-groups requiring special attention on reading/language arts skills therefore prospective trainers should demonstrate their experience and qualifications in the delivery of a training curriculum to these students. It is recommended to delete the words "may include" and insert "including."~~

~~Response: The criteria and provisions included in Sections 11984 through and 11984.6 include sufficient requirements to ensure that teachers are being trained by providers who have the knowledge and experience to carry out the requirements under Education Code section 99237, specifically that the training be "designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs."~~

~~COMMENTS RECEIVED DURING THE PERIOD THE SECOND 15-DAY NOTICE, FOR DOCUMENTS RELIED UPON IN AMENDING THE REGULATIONS, WAS AVAILABLE TO THE PUBLIC~~

~~The documents relied upon in amending the regulations was made available to the public from June 7, 2007 through June 21, 2007, inclusive. No comments were received.~~

COMMENTS RECEIVED DURING THE PERIOD THE THIRD 15-DAY NOTICE AND PROPOSED REGULATION TEXT WAS AVAILABLE TO THE PUBLIC

The modified text was made available to the public from July __, 2007 through July __, 2007, inclusive. No comments were received.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

REGULATIONS TO BECOME EFFECTIVE UPON FILING

The SBE requests that these regulations become effective upon filing because no current regulations are in effect for the English learner professional development portion of the program. Delaying of the regulations will also delay the date that teachers may begin their training on instruction for English learners.

6-15-07 [California Department of Education]

ITEM #~~_____~~#14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Community-Based English Tutoring Program: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and CDE shall complete the rulemaking package and submit it to the Office of Administrative Law for approval; and
- 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 with changes on the SBE's September 2007 agenda for action.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On March 7, 2007, the SBE approved the commencement of the rulemaking process for the proposed regulations to the Community-Based English Tutoring (CBET) program and directed staff to begin the 45-day written comment period. The public comment period began March 23, 2007.

SUMMARY OF KEY ISSUES

The CBET program finances local educational agencies for the purpose of providing English language instruction to parents or other community members who pledge to tutor school-aged English learners. The CBET program is authorized by California *Education Code* (*EC*) sections 315-317. The proposed amendments to the regulations address the addition of *EC* sections 315.5, 316.5, and 317 which were enacted by Senate Bill 368, Statutes of 2006.

On the final day of the public comment period, May 8, 2007, CDE staff conducted a public hearing to obtain additional comments on the proposed regulations. In total, the CDE received 136 written comments from individuals. At the public hearing, five individuals provided oral comments.

Based upon comments submitted, as identified in the Update of Initial Statement of Reasons, the CDE has amended the proposed regulations. These amendments require an additional 15-day public comment period.

FISCAL ANALYSIS (AS APPROPRIATE)

The funding level for CBET programs was established in June 1998 to be an annual appropriation of $50 million for a period of ten years. Beginning in fiscal year 2007-08, this program will be considered as an item in the annual Budget Act.

ATTACHMENT(S)

Attachment 1: Title 5. Education, Division 1. California Department of Education, Chapter 11. Special Programs, Subchapter 4. English Language Learner Education (3 pages)

Attachment 2: Final Statement of Reasons (7 pages)

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 4. English Language Learner Education

§ 11315. Community-Based English Tutoring (CBET) Programs.

In distributing funds authorized by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317, the State Superintendent of Public Instruction (SSPI) shall allocate the funds and local educational agencies shall disburse the funds at their discretion consistent with the following:

(a) The funds made available by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317 shall be apportioned by the ~~State Superintendent of Public Instruction~~ SSPI to local educational agencies offering Community-Based English Tutoring based upon the number of limited English proficient (LEP) pupils identified in the Annual Language Census Survey from the prior year.

(b) The governing boards of local educational agencies may disburse these funds at their discretion to carryout the purposes of this section. Local educational agency governing boards shall require providers of adult English language instruction which receive funds authorized by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317 to maintain evidence that adult program participants have pledged to provide personal English language tutoring to California school pupils with limited English proficiency.

(c) Local educational agencies may use these funds for direct program services, community notification, transportation services, and background checks pursuant to Education Code section 35021.1 related to the tutoring program.

(d) Local educational agencies shall not receive any funds pursuant to Education Code sections 315, 315.5, 316, 316.5, and 317 until the first day that chapter 3 (commencing with section 300) of Part 1 of the Education Code is operative for that local educational agency.

NOTE: Authority cited: Sections 316, ~~and~~ 316.5, 33031 and 35021.1, Education Code. Reference: Sections 315, ~~and~~ 315.5, 316, and 317, Education Code.

§ 11315.5. Local Education Agencies Assurances of Compliance.

In addition to assurances specified in Education Code section 35021.1, a Local Education Agency (LEA) applying for Community-Based English Tutoring funding shall provide assurances to the State Board of Education that:

(a) ~~**The LEA**~~ **it** shall certify that it has read and is familiar with the regulations governing the program, which include California Code of Regulations, title 5, sections 11315 and 11315.5, ~~**and that it will implement the goals**~~;

(b) ~~**The LEA**~~ **it** will develop a Community-Based English Tutoring plan ~~**in accordance**~~ with the SB 368 additions of Education Code sections 315.5, 316.5 and 317. The plan shall be approved by the governing board of the school district and shall be reviewed and revised as necessary, **or at a minimum of** ~~**not less than**~~ once every three years;

(c) ~~**The LEA**~~ **it** shall retain, for no less than five years, all records related to the training, attendance, and reading achievement of adult English-as-a-second-language learners who pledge to provide tutoring to pupils with limited-English-language proficiency. ~~**The format of such records shall be substantially similar to the CBET Data Collection Template located on the web at http://www.cde.ca.gov/sp/el/cb/**~~ **Assessment results of elementary student participants are to be made available solely to administrators and directors of CBET programs operated through high school districts, community colleges, or other community-based organizations to fulfill the data reporting and analysis requirements established by these amendments and in no event shall assessment results be communicated in any way to anyone not already legally authorized to have that information.**.

(d) ~~**The LEA**~~ **it** shall maintain data-based records that include, but not limited to, measurable English reading growth of adult English language learners participating in the Community-Based Tutoring program; and,

(e) ~~**The LEA**~~ **it** shall maintain district level data pertaining to, but not limited to:

(1) improvement in attendance of pupils participating in the tutoring program;

(2) achievement progress of K-12 pupils tutored by Community-Based English Tutoring as measured by the English language development test administered under section 60810; and

(3) review of individual K-12 pupil data from the Standardized Testing and Reporting program, under Education Code section 60640, to determine progress of pupils tutored by adults who have been trained as a tutor.

NOTE: Authority cited: Section 313, Education Code. Reference: Sections 315, 315.5, 316, and 317, Education Code.

5-25-07 [California Department of Education]

FINAL STATEMENT OF REASONS

Community-Based English Tutoring (CBET) Programs

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed amendments to the Community-Based English Tutoring Program (CBET) regulations will provide for accountability requirements from districts that receive apportionments to support CBET Programs. The addition of *California Code of Regulations* Section 11315.5 requires a CBET plan to be approved by the governing board of funded districts. This regulation further clarifies the steps and requirements for the development of a CBET plan and for the collection and analyses of specified data to be used to revise the plan as necessary.

At its March 2007 meeting the State Board of Education (SBE) approved the commencement of the rulemaking process for the proposed CBET regulations. The 45-day public review period for the regulations began on March 23, and the CDE held a public hearing to receive oral comments on the proposed regulations on May 8, 2007.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MARCH 23, 2007 THROUGH MAY 8, 2007.

Written comments from 136 individuals were submitted to the Regulations Coordinator during the 45-day public comment period.

Comments #1-129: Individual letters of support for the CBET program as a whole were submitted by 129 adults and parents currently enrolled in the program.

Response: No formal response is needed because the 129 letters of support do not specifically address any of the proposed regulations. (See, Govt. C. § 11346.9(a)(3).)

Comment 130: Gary L. Jones, Modoc County Superintendent of Schools, Adult Education Field Partnership Team Representative, Region 2, submitted the following comment:

"The disclosures regarding the proposed regulation assert that the SBE has made the following initial determinations: 'There are no non-discretionary costs imposed on local education agencies (LEA)s.'

However, additional non-discretionary costs are increased on local educational agencies. As a condition of for receiving funding, all agencies would be required to develop a plan, collect certain data, and, at least every three (3) years, review and revise the plan.

The development and maintenance of the required plan and data collection will increase salary and benefit costs to LEAs.

For example, in Modoc County, one CBET program is funded at $2429, while the other is $4060. If the costs associated with developing a local plan and collecting data are based on only 30 employee hours, the cost for developing the plan would be $700. That is 29 percent of one program's CBET revenue and 17percent of the other's.

The CBET program is difficult enough to justify at its current funding level for small educational agencies; consequently, they will likely discontinue their CBET programs if this amendment is approved.

The initial determination by SBE that 'There are no non-discretionary costs imposed on LEAs is incorrect and should be considered before action is taken to amend the code."

Response: Mr. Jones' comments refer to the finding that there are no non-discretionary costs imposed on local education agencies choosing to participate in this non mandated program. The proposed amended regulations do not prohibit discretionary use of CBET funds for oversight and administrative costs. The cost ratio for administering the program, as pointed out by Mr. Jones, may be proportionately higher for districts receiving smaller awards. As proposed, however, section 11315(b) allows governing boards of LEAs to disburse these funds at their discretion in order to carry out the purposes of this section.

Comment 131: Alan Calem, Laurel School, Oceanside, California submitted an e-mail supporting the continuance of the CBET program.

Response: No formal response is needed because this letter of support does not specifically address the proposed regulations. (See, Govt. C. § 11346.9(a)(3).)

Comment 132: Carolyn Baxter, Assistant Principal, Fontana Adult School submitted a letter in support of CBET and the additional accountability provisions.

Response: No formal response is needed because this letter of support does not specifically address the proposed regulations. (See, Govt. C. § 11346.9(a)(3).)

Comment 133: Jeffrey Frost, California Council for Adult Education and the California Teachers of English to Speakers of Other Languages, Legislative Advocate submitted the following five comments:

The California Council for Adult Education and the California Teachers of English to Speakers of Other languages (CATESOL) were two of the sponsors of Senate Bill (SB) 368 (Escutia) that reauthorized the CBET program. CCAE and CATESOL members, including adult education teachers, administrators, English as a Second Language (ESL) teachers and CBET coordinators have raised a number of issues that warrant greater clarity in the final regulations. We have identified the following issues that need to be more clearly addressed in the final CBET regulations:

Need to Ensure Data Can Be Collected – Both SB 368 and the draft regulations address the need for CBET programs and school districts to collect data related to the academic achievement of Kindergarten through grade 12 (K-12) students. However, without additional regulatory language this may be difficult. In many cases, CBET programs are offered by high school districts or community colleges while the children being tutored by CBET adult students are in elementary school districts. We would encourage the regulations to directly address the requirement for elementary districts to allow CBET programs access to K-12 student test data.

K-12 Student Data Collection Requirements – SB 368 provides CBET funding for parents "or other members of the community" who pledge to provide personal English language tutoring to improve the English language proficiency of school children. The final CBET regulations need to include requirements that school districts will release K-12 student test data to CBET programs where that K-12 student has been tutored by not only a parent but "a member of the community." It is our belief that under current practice it may be difficult to get districts to release individual test data to anyone other than parents. This requirement should be fully clarified in the regulations.

Information on CBET Pledge Card – In order to clarify the data collection needs required by SB 368, it is critical that the pledge cards required to be signed by CBET adult students include the K-12 student identification number and a place for a CBET tutor signature for the release of K-12 student test data. The final CBET regulations should specify what information the pledge cards should contain.

Adult CBET Student Data Collection – SB 368 requires the collection of data that measures whether adult students participating in the CBET program have made "measurable English language learning progress." The draft regulations do not provide any guidance or requirements on how or what data should be collected to measure whether there have been measurable gains. We strongly urge that the final regulations specify that all CBET programs shall utilize the CASAS test for purposes of measuring adult student progress in English. The Comprehensive Adult Student Assessment System (CASAS) test is widely used in CBET and adult education programs throughout the state. Requiring that measurement of adult progress be done with CASAS data would ensure that there is uniformity through out the state.

Requirement to Establish a Baseline for Student Success – One of the primary objectives of SB 368 was the need to measure the effectiveness of CBET tutoring on K-12 student achievement. The best way to accomplish this objective is to ensure that districts are properly comparing the K-12 student test data between students that have had the benefit of CBET tutoring and those that have not. This will require discrete analysis and the establishment of a baseline on which year over year analysis and tracking can be done. In our view, the final CBET regulations must establish the parameters of not only how the data should be collected but how it should be analyzed, as well.

Response: Mr. Frost's first two comments recognize that CBET programs are often administered by high school districts or community colleges. The proposed amendments to the CBET regulations require collection and analysis of data from both adult and elementary students. In response, language has been added to the proposed regulations (Subdivision (c), Section 11315.5, as proposed) restricting access to the specified assessment data to administrators of CBET programs.

Mr. Frost's third comment addresses the need for certain data to be required on all adult pledge cards. No formal response is necessary since it does not address the regulations. (See, Govt. C. § 11346.9(a)(3).)

Mr. Frost's fourth comment requests that one standard assessment be required of all adults enrolled in CBET programs. Specifically he recommends that the CASAS be mandated. SB 368 does not authorize implementation of a specific measurement instrument to be mandated by regulation across all programs.

Mr. Frost's fifth comment suggests that specific parameters of data collection and analysis be included in the regulations. Again, there is no language in SB 368 that authorizes development and implementation of such standards through regulations.

An administrative regulation must "be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law." (Gov.Code, § 11342.1.) "Whenever by the express or implied terms of any statute a state agency has authority to adopt regulations to implement, interpret, make specific or otherwise carry out the provisions of the statute, no regulation adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute." (Gov.Code, § 11342.2.)

Even apart from these statutory limits, the California Supreme Court has held that the rulemaking power of an administrative agency does not permit the agency to exceed the scope of authority conferred on the agency by the Legislature. (*Agnew v. State Bd. of Equalization* (1999) 21 Cal.4th 310, 321.) Accordingly, without commenting on the merits of Mr. Frost's proposals, the changes sought by Mr. Frost are not being made.

Comment 134: Philip Schultz, CBET coordinator, Orange Unified School District submitted a letter supportive of the CBET program as well as several pages of survey data testifying to popularity of the program in his district.

Response: No formal response is needed because this letter of support and survey information does not specifically address the proposed regulations.

Comment 135: Sue Garnett, Santa Ana College Family and Literacy & Parent Education Coordinator. Santa Ana, California submitted the following two comments:

Thank you for the opportunity to participate in the rulemaking process related to SB 368 & CBET. I work in a large CBET program in Santa Ana, and participate in the southern California CBET Consortium. Let me begin by saying that the CDE in general and Mark Klinesteker in particular have been extremely helpful to the field as we prepare for the "new CBET." I want you to know how supportive the field is of increased accountability, and how hard we have all been working not only to describe what is already successful about our programs but also to seek new ways to improve them and better serve our adult students here in California.

Having said that, I would like to see more clarity on several issues:

The data collection requirements seem overwhelming in light of our current lack of staffing and the vagueness of the language. We are all doing our best to make it happen, and soon, and in a logical fashion. While I value the built-in flexibility to allow LEAs to personalize this part, I think there is still a great deal of confusion in the field about exactly which data to collect and how. This is a huge piece, and although it is not impossible it does create big challenges even for those of us who have been collecting some of the data all along. Is there anyway to clarify and streamline this to make it more manageable?

I am concerned that smaller districts may opt out rather than apply for CBET this year. Is it well known who can apply for a waiver, and how?

I am concerned about the pledge forms. We cannot exclude non-parents from our CBET classes; we must collect a pledge form from every adult student every semester, linking that adult student to K-12 learners for tracking purposes. We will need to sort through all the pledge forms turned in and determine whether the adult signer is actually the parent of record, and follow up somehow on the ones which are "other." To me, this area of the new regulations seems to open us up to liability/privacy issues and/or creates yet another layer of labor intensive paperwork. I begin to wonder if instead of seeking to expand our sites to serve more neighborhoods, we will need to shut some down in order to have funds for the increased administrative function.

In spite of the challenges, this is a very exciting time to be a part of the CBET family. The work we do is significant, and I am interested in analyzing the data from year to year to continuously adapt our program to help parents help their kids with school! Thank you for all you are doing in support of parental involvement and improving English in our immigrant communities.

Response: Sue Garnett's first comment refers to confusion in the field about how assessment data is to be collected for each CBET student and then compiled for analysis. No current statewide system is in place to assist in streamlining this requirement.

Ms. Garnett's second comment expresses concern for confidentiality of records because non parents may participate in the program. The legislation does not require the linking of adult to student data. The only persons with access to disaggregated data will be program administrators and coordinators.

Comment 136: Michelle Mills, CBET Resource Teacher, Hueneme School District submitted a letter of support representing 350 current adult CBET students.

Response: No formal response is needed because this letter of support does not specifically address the proposed regulations.

COMMENTS RECEIVED DURING THE PUBLIC HEARING ON MAY 8, 2007

Five individuals provided oral comments in strong support of the proposed regulation to require CBET accountability measures to improve existing programs. One individual spoke on behalf the East Bay CBET Consortium to urge the Senate Budget Committee to support the governor's inclusion of $50 million dedicated to CBET programs.

Sue Garnett orally presented the letter previously submitted and included in the written comment section.

Jeff Frost orally presented the comments he previously submitted and are included in the written comment section.

Response: No formal response is required for the five individuals because comments of support do not specifically address the proposed regulations. Responses to Ms. Garnett and Mr. Frost may be found in the written comment section.

Section 11315.5(c) has been amended to make available the specified assessment results from elementary student participants to administrators of CBET programs.

COMMENTS RECEIVED DURING THE PERIOD THE 15-DAY NOTICE AND PROPOSED REGULATION TEXT WAS AVAILABLE TO THE PUBLIC

The modified text was made available to the public from July _____, 2007 through July _____, 2007, inclusive. No comments were received during the 15-day public comment period.

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 as and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts. The CBET program is voluntary, so there is no mandate being imposed by the state.

5-25-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 5, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 14

SUBJECT: Community-Based English Tutoring Program: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations

The following is a summary of proposed changes to the community-based English tutoring (CBET) regulations:

Page 2 revisions; on lines 7, 10, 15, and 26, the words **The LEA** were deleted.

Page 2 revision; line 9, **and that it will implement the goals** was deleted.

Page 2 revision; lines 10 through 11, **in accordance** was deleted.

Page 2 revisions; line 13, **or at a minimum of** will replace **not less than.**

Page 2 revisions; on lines 18 and 19, **The format of such records shall be substantially similar to the CBET Data Collection Template located on the web at http://www.cde.ca.gov/sp/el/cb/** was deleted.

Page 2 revision; lines 20 through 25 contain new language resulting from the May 8, 2007 public hearing. **Achievement results from the California Standards Test (CST) and the California English Language Development Test (CELDT) of K-12 students, tutored by adult CBET enrollees, are to be made available to CBET administrators and directors of CBET programs to fulfill the data collection requirements established by Education Code 317 and in no event shall assessment results be communicated in any way to anyone not already legally authorized to have that information.**

Page 3 revision; line 1, the words **The LEA** were deleted.

Attachment 1: Title 5. Education, Division 1. California Department of Education, Chapter 11. Special Programs, Subchapter 4. English Language Learner Education.(3 Pages)

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 4. English Language Learner Education

§ 11315. Community-Based English Tutoring (CBET) Programs.

In distributing funds authorized by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317, the State Superintendent of Public Instruction (SSPI) shall allocate the funds and local educational agencies shall disburse the funds at their discretion consistent with the following:

(a) The funds made available by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317 shall be apportioned by the ~~State Superintendent of Public Instruction~~ SSPI to local educational agencies offering Community-Based English Tutoring based upon the number of limited English proficient (LEP) pupils identified in the Annual Language Census Survey from the prior year.

(b) The governing boards of local educational agencies may disburse these funds at their discretion to carryout the purposes of this section. Local educational agency governing boards shall require providers of adult English language instruction which receive funds authorized by Education Code sections 315, ~~and~~ 315.5, 316, 316.5, and 317 to maintain evidence that adult program participants have pledged to provide personal English language tutoring to California school pupils with limited English proficiency.

(c) Local educational agencies may use these funds for direct program services, community notification, transportation services, and background checks pursuant to Education Code section 35021.1 related to the tutoring program.

(d) Local educational agencies shall not receive any funds pursuant to Education Code sections 315, 315.5, 316, 316.5, and 317 until the first day that chapter 3 (commencing with section 300) of Part 1 of the Education Code is operative for that local educational agency.

NOTE: Authority cited: Sections 316, ~~and~~ 316.5, 33031 and 35021.1, Education Code. Reference: Sections 315, ~~and~~ 315.5, 316, and 317, Education Code.

§ 11315.5. Local Education Agencies Assurances of Compliance.

In addition to assurances specified in Education Code section 35021.1, a Local Education Agency (LEA) applying for Community-Based English Tutoring funding shall provide assurances to the State Board of Education that:

(a) ~~**The LEA**~~ it has read and is familiar with the regulations governing the program, which include California Code of Regulations, title 5, sections 11315 and 11315.5, ~~**and that it will implement the goals**~~;

(b) ~~**The LEA**~~ **it** will develop a Community-Based English Tutoring plan ~~**in accordance**~~ with the SB 368 additions of Education Code sections 315.5, 316.5 and 317. The plan shall be approved by the governing board of the school district and shall be reviewed and revised as necessary, **or at a minimum of** ~~**not less than**~~ once every three years;

(c) ~~**The LEA**~~ **it** shall retain, for no less than five years, all records related to the training, attendance, and reading achievement of adult English-as-a-second-language learners who pledge to provide tutoring to pupils with limited-English-language proficiency. ~~**The format of such records shall be substantially similar to the CBET Data Collection Template located on the web at http://www.cde.ca.gov/sp/el/cb/**~~ **Achievement results from the California Standards Test (CST) and the California English Language Development Test (CELDT) of K-12 students, tutored by adult CBET enrollees, are to be made available to CBET administrators and directors of CBET programs to fulfill the data collection requirements established by Education Code 317 and in no event shall assessment results be communicated in any way to anyone not already legally authorized to have that information.**

(d) ~~**The LEA**~~ **it** shall maintain data-based records that include, but not limited to, measurable English reading growth of adult English language learners participating in the Community-Based Tutoring program; and,

(e) ~~**The LEA**~~ **it** shall maintain district level data pertaining to, but not limited to:

(1) improvement in attendance of pupils participating in the tutoring program;

(2) achievement progress of K-12 pupils tutored by Community-Based English Tutoring as measured by the English language development test administered under section 60810; and

(3) review of individual K-12 pupil data from the Standardized Testing and Reporting program, under Education Code section 60640, to determine progress of pupils tutored by adults who have been trained as a tutor.

NOTE: Authority cited: Section 313, Education Code. Reference: Sections 315, 315.5, 316, and 317, Education Code.

07-02-07 [California Department of Education]

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Sacramento County Committee on School District Organization request to modify the State Board of Education resolution approving the proposed unification of the Grant Joint Union High School District with the Del Paso Heights School District, the North Sacramento School District, and the Rio Linda Union School District in Sacramento County.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the Sacramento County Committee on School District Organization request to modify the resolution adopted March 7, 2007, which approved the proposed unification of the Grant Joint Union High School District (GJUHSD).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On March 7, 2007, the SBE unanimously voted to approve the proposed unification of the GJUHSD with the Del Paso Heights School District (SD), the North Sacramento SD, and the Rio Linda Union SD in Sacramento County.

SUMMARY OF KEY ISSUES

California *Education Code* (*EC*) Section 35737 requires unification proposals to include a provision to stagger the terms of newly elected governing board members when the election for the first governing board of the district is held at the same time as the election on the unification of the school districts. The resolution adopted by the SBE on March 7, 2007, which approved the unification proposal, contained such a provision, stating:

> RESOLVED further that in order to stagger the terms of the members of the governing board, the initial terms of the trustees from the even-numbered trustee areas will end on the first Friday in December of the first even year after the initial election of the governing board and the trustees from the odd-numbered trustee areas will end on the first Friday in December of the second even year after the initial election of the governing board.

Proponents of the unification proposal now have expressed concern that the staggering of the initial board members' terms of office included in the SBE March 7, 2007, resolution would create instability in the new district because three trustees would have initial terms of only one year. Sacramento County Office of Education (SCOE) staff has

SUMMARY OF KEY ISSUES (CONT.)

researched what alternatives are available to provide for lengthier initial terms and arrived at a solution that can be accomplished in time for the November 2007 election. This solution entails both: (1) a waiver of portions of two *EC* sections (also on this July 2007 agenda) and (2) an amendment to the March 7, 2007, SBE resolution approving the unification petition. The effect of those actions would be to allow the initial terms of all trustees to be the same (either three or four years depending on whether the initial board resolves to consolidate future trustee elections with the statewide general election) and to begin the staggering of terms with the second election. To accomplish this change, SCOE staff proposes the following language:

> RESOLVED further, that in order to stagger the terms of the members of the governing board and provide stability for the start-up of the new district, the initial terms of the trustees shall be four years, unless the governing board by resolution consolidates the election of the governing board members with the statewide general election, and then the initial terms of the trustees shall be three years. The successor trustees from the even-numbered trustee areas will have terms ending on the first Friday in December of the first odd year after their election to the board, unless the election of the governing board members has been consolidated with the statewide general election and then the successor trustees from the even-numbered trustee areas will have terms ending on the first Friday in December of the first even year after their election to the board. The successor trustees from the odd-numbered trustee areas will have terms ending on the first Friday in December of the second odd year after their election to the board, unless the election of the governing board members has been consolidated with the statewide general election and then the successor trustees from the odd-numbered trustee areas will have terms ending on the first Friday in December of the second even year after their election to the board.

Attachment 1 is a chart showing the terms of office for the new governing board under the language in the existing SBE resolution compared with the terms of office under the proposed language.

FISCAL ANALYSIS (AS APPROPRIATE)

This action by the SBE will have no fiscal effect on the CDE, the SBE, or any local agency.

ATTACHMENT(S)

Attachment 1: Comparison of terms of office for the governing board of a new unified school district formed from the existing Grant Joint Union High School District, Del Paso Heights School District, North Sacramento School District, and Rio Linda Union School District (1 Page).

COMPARISON OF TERMS OF OFFICE FOR THE GOVERNING BOARD OF A NEW UNIFIED SCHOOL DISTRICT FORMED FROM THE EXISTING GRANT JOINT UNION HIGH SCHOOL DISTRICT, DEL PASO HEIGHTS SCHOOL DISTRICT, NORTH SACRAMENTO SCHOOL DISTRICT, AND RIO LINDA UNION SCHOOL DISTRICT

TRUSTEE AREA	INITIAL ELECTION DATE	UNDER CURRENT SBE RESOLUTION ADOPTED 3/7/07	UNDER PROPOSED AMENDMENT TO 3/7/07 SBE RESOLUTION	
		INITIAL TERM ENDS*	INITIAL TERM ENDS*	SECOND TERM ENDS*
1	2007	2010	2010	2014
2	2007	2008	2010	2012
3	2007	2010	2010	2014
4	2007	2008	2010	2012
5	2007	2010	2010	2014
6	2007	2008	2010	2012
7	2007	2010	2010	2014

*AFTER CONSOLIDATION OF ELECTION

ITEM #16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Report: Electronic Editions of State-Adopted Instructional Materials	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) accept the attached report for its information, and make use of it when determining policy with regard to electronic editions of instructional materials.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

May 10, 2007: SBE member Alan Bersin requested that the CDE provide a report on the status of electronic editions of SBE-adopted instructional materials.

SUMMARY OF KEY ISSUES

A review of the SBE kindergarten through grade eight instructional materials adoptions over the past eight years shows that more publishers are making electronic editions of their materials available as an alternate format to their print textbooks. Furthermore, the last two years have seen a number of publishers submit programs that have an integrated electronic component or that, in some cases, are entirely technology-based.

Page 12 of the attached report contains a table that lists the number of programs adopted by the SBE since 2000 that have electronic editions of the student editions included as part of the program. The table also lists the number of programs that have an integrated electronic component that students use to master the standards. The table shows that more publishers in recent adoptions are including electronic versions of their materials. In the 2000 Science, 2001 Mathematics, and 2002 Reading/Language Arts/English Language Development Primary Adoptions, only 2 of the 28 programs that were adopted had either an electronic version of the student text or an integrated electronic component. By contrast, in the 2005 History–Social Science and 2006 Science Primary Adoptions, 15 of the 21 adopted programs had such a component.

There have been several bills in the Legislature in recent years that would have required publishers to make electronic editions available for purchase. In 2004, Assembly Bill (AB) 1010 (Pavley) would have mandated that publishers offer for sale electronic editions of their instructional materials following state adoption for

SUMMARY OF KEY ISSUES (Cont.)

kindergarten through grade eight, or local adoption for grades nine through twelve. This bill passed the Legislature, but was vetoed by the Governor citing cost and adequacy concerns. The following year, AB 1548 was submitted with the same initial goal. That bill was later amended to instead focus on a pilot program called the Digital Classroom Grant Program, which will allow 12 districts to request that publishers provide electronic editions of their basic instructional materials programs. That bill was signed into law in September 2006, and the CDE is currently soliciting applications for districts to participate in the pilot process.

The attached report shows that electronic versions of adopted instructional materials have become increasingly common in the last few years, a trend which is likely to continue for future adoptions. Therefore, the SBE should pursue policies that continue to facilitate the expanded use of electronic editions, while ensuring that electronic content remains accurate and aligned to standards.

These policies may include:

- Continuing to adopt evaluation criteria that support the use of technology-based materials as an avenue toward mastery of standards. The SBE should be aware when adopting criteria that electronic materials may address issues of content, program organization, assessment, universal access, and instructional planning and support differently than traditional print-based materials.

- Providing information on the use of electronic editions of instructional materials in the curriculum frameworks adopted by the SBE.

- Supporting professional development for teachers in the use of electronic instructional materials.

- Supporting the use of electronic editions as a way for publishers to meet the requirements of the maximum weight standards adopted by the SBE in May 2004.

- Supporting the separate funding of technology infrastructure for schools, including high-speed networks, laptops for children, computer labs, and other resources that will help districts and schools when deciding when and how to implement electronic instructional materials.

FISCAL ANALYSIS (AS APPROPRIATE)

This report is for information only and has no fiscal impact.

ATTACHMENT(S)

Attachment 1: Electronic Editions of State-Adopted Instructional Materials (17 pages)

Electronic Editions of State-Adopted Instructional Materials

A Report Prepared for the State Board of Education

Dr. Thomas Adams, Director
Susan Martimo, Administrator
Dr. Kenneth McDonald, Education Programs Consultant
Curriculum Framework and Instructional Resources Division
California Department of Education

May 30, 2007

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Appendix A: Electronic Editions of State-Adopted Instructional Materials 14

Executive Summary

Continuing improvements in computer technology have made the use of electronic delivery of instructional content increasingly feasible for teachers, schools, and districts. Computers are a fundamental fact of life for today's students, and more and more students have access to these machines at home, school, libraries, and other locations throughout their lives. These students have grown up with technology and are familiar with its use.

The use of instructional materials based on electronic technology offers both opportunities and challenges for students, teachers, schools, districts, and publishers. Electronic materials offer potential benefits in terms of interactivity, savings in production and distribution costs, lower weight and improved portability, and ease of replacement. However, those considering electronic options must also address concerns about equity, infrastructure costs, copyright issues, and health impacts.

In recent years the Legislature has made several unsuccessful attempts to mandate that publishers provide electronic editions of their basic instructional materials. While this legislation has not been successful, a study of State Board of Education (SBE) adoptions over the past eight years shows that publishers are beginning to make electronic editions of their materials available as an alternate format to their print textbooks. Furthermore, the last two years have seen a number of publishers submit programs that have an integrated electronic component or that, in some cases, are entirely technology-based.

Given this new reality, and the ongoing trend evident in this data, it seems that the best approach is not to mandate what is already happening, but rather to help both publishers and districts get useful, standards-aligned electronic materials into the hands of students. Ultimately, it will be up to the districts to choose which technology resources, if any, are most appropriate for use with their students. Under current California law, the adoption process is set up to give districts choices (ideally, at least five per grade level)[1], rather than mandate a specific curriculum or pedagogical approach.

Therefore, instead of issuing mandates to publishers, the SBE should pursue policies that continue to facilitate the expanded use of electronic editions, while ensuring that electronic content remains accurate and aligned to standards.

These policies may include:

- Continuing to adopt evaluation criteria that support the use of technology-based materials as an avenue toward mastery of standards. The SBE should be aware when adopting criteria that electronic materials may address issues of content, program organization, assessment, universal access, and instructional planning and support differently than traditional print-based materials.

[1] *California Education Code*, Section 60200(a).

- Providing information on the use of electronic editions of instructional materials in the curriculum frameworks adopted by the SBE.

- Supporting professional development for teachers in the use of electronic instructional materials.

- Supporting the use of electronic editions as a way for publishers to meet the requirements of the maximum weight standards adopted by the SBE in May 2004.

- Supporting the separate funding of technology infrastructure for schools, including high-speed networks, laptops for children, computer labs, and other resources that will help districts and schools when deciding when and how to implement electronic instructional materials.

Background

The use of technology to deliver instructional content relies on multiple interrelated components. These include hardware, such as laptop or desktop computers or file readers, and software, which are the programs and instructions that tell the computer what to do. Both are necessary to access the instructional content. In addition, schools and districts must consider what delivery technology is used to provide the content in a way that the teachers and students can access. Electronic editions of instructional materials raise questions of access above and beyond those typically associated with a traditional textbook.

“Electronic editions” as the term is used in this report can include, but is not limited to, the following delivery technologies:

- Optical Disks. One of the most common means of delivering digital data today remains the optical data disk, including the CD-ROM and DVD-ROM. These disks have the advantages of low cost (each type costing cents to produce in volume), compatibility with most desktop and laptop computer models, capacity (approximately 700 megabytes for a CD-ROM, and 4.4 gigabytes for a single-layer DVD-ROM), and familiarity. A number of currently adopted publishers provide digital copies of their textbooks on CD-ROM, and others use the technology to offer electronic course planners, test generator programs, and other teacher materials.

- Flash Memory Drives. These portable devices are becoming increasingly common in the consumer electronics sector. Flash memory devices are extremely portable and are becoming rapidly less expensive; two gigabyte drives can now be purchased for less than 30 dollars at retail. Flash drives can be inserted into any computer with a Universal Serial Bus (USB) interface. Most computers constructed within the last five years have these access ports. While more expensive than optical disks, flash memory drives have the advantages of

compact size (although this can make them susceptible to loss), speed (especially on recent computers that use the USB 2.0 standard), and the ability to write data onto the drive. Companies like SanDisk, one of the leading producers of flash memory drives, have already begun pilot projects providing schools with digital copies of textbooks on flash memory drives.[2] Hemi Weingarten of SanDisk made a presentation about the use of these drives in the classroom to the Curriculum Development and Supplemental Materials Commission (Curriculum Commission) at its meeting of December 1, 2005. However, no state-adopted programs currently include flash memory drives.

- Internet-Based. More publishers today are including Internet-based components in the programs they submit for state adoption. These can include ancillary components such as enrichment exercises for students that supplement the core textbook, or they can include the entire textbook in a searchable, online format. Internet-based programs require a connection to the Internet to function, either dial-up or broadband. According to the 2006 California School Technology Survey, 89.7% of California classrooms are connected to the Internet.[3] However, there are issues with students having limited access to the Internet at home (see "Benefits and Challenges" below for more information).

- Server-Based. Server-based programs have the advantage of centralization; the data for the program resides on a central server, either at the school site or connected to the publisher via a broadband Internet connection. Server-based programs often come with a site license that allows many computers at the school to interface with the content on the server. This can also allow for centralized tracking of student access and assessment data. However, it requires that the school's computer system be networked, and that all of the computers have network connections (typically via an Ethernet port built into the machine).

The hardware used to access these devices varies. The most common tool required to use digital content is a personal computer, either a desktop or laptop. Most computers sold today can access all of the systems described above, but many districts have older machines that may not be compatible with all modern delivery technologies.[4] There are too many varieties of computers and configurations to address in this report, so publishers need to be specific when stating the system requirements needed to access their electronic programs.

Similarly, the software used to deliver instructional content is too varied to address in any detail in this report. Among the most common formats are the Portable Document Format (PDF) used by Adobe Systems, Hypertext Markup Language (HTML), typically used for Web-based content, and the Microsoft Word Document (DOC) format. Free

[2] Scott Cohen, "Flash drives make any computer 'personal', USA Today (October 9, 2005), online at <http://www.usatoday.com/tech/products/gear/2005-10-09-flash-memory_x.html> (May 15, 2007).
[3] California Department of Education and the California Technology Assistance Project, 2006 California School Technology Survey, online at <http://dq.cde.ca.gov/dataquest/> (May 16, 2007).
[4] The 2006 California School Technology Survey found that nearly half of all computers used in schools (46.6%) are at least four years old.

readers exist for all of the above file types. In addition, many publishers use proprietary programs that require installation of the software on an individual personal computer before they can be accessed. While the more common software formats are usable in multiple operating systems, including those published by Apple Computer (e.g. Macintosh or MacOS) and Microsoft (Windows XP, Vista), districts need to be aware that not all publisher-specific software may run on a particular hardware and software configuration. Publishers of electronic editions should include information about the hardware and software needed to run their software when they submit information about their programs to districts, schools, and teachers.

Current law requires all publishers who are adopted by the State Board of Education to submit electronic files of their instructional materials for the transcription of those materials into Braille (California *Education Code* Section 60061.8). The CDE's Clearinghouse for Specialized Media and Technology produces Braille, large-print, and audiobook formats of adopted instructional materials for use by students with disabilities at no cost.

There have been several bills in the Legislature in recent years that would have required publishers to make electronic editions available for purchase. In 2004, AB 1010 (Pavley) would have mandated that publishers offer for sale electronic editions of their instructional materials following state adoption for kindergarten through grade eight, or local adoption for grades nine through twelve. This bill passed the Legislature, but was vetoed by the Governor citing cost and adequacy concerns.[5] The following year, AB 1548 was submitted with the same initial goal. That bill was later amended to instead focus on a pilot program called the Digital Classroom Grant Program, which will allow 12 districts to request that publishers provide electronic editions of their basic instructional materials programs. That bill was signed into law in September 2006, and the CDE is soliciting applications for districts to participate in the pilot process. However, since the bill does not provide any additional resources for schools or districts, and places additional reporting and other requirements on the participating schools, it is uncertain how much interest there will be in the pilot.[6]

Benefits and Challenges

The use of electronic instructional materials offers both potential benefits and challenges to districts, schools, teachers, and students.

[5] Veto message by Governor Arnold Schwarzenegger, September 29, 2004, available online at <http://www.leginfo.ca.gov/pub/03-04/bill/asm/ab_1001-1050/ab_1010_vt_20040929.html> (May 21, 2007).

[6] More information about the AB 1548 Alternate Instructional Materials Pilot Program, including an application and certification forms for districts to participate in the pilot, can be found at the CDE Web site at <http://www.cde.ca.gov/ls/et/st/aimppab1548.asp> (May 23, 2007). Applications must be sent by fax or postmarked no later than September 1, 2007.

Some of the benefits of using technology-based materials include:

- Interactivity. One key advantage of digital texts over traditional hard-bound editions is the ability to easily alter the format of the materials. For example, in most technology-based programs it is an easy matter to resize text to make it larger on the screen, for students who have difficulty viewing small print. Electronic instructional materials can offer other forms of interactivity including embedded dictionaries, options for recording notes either directly in the text file or as an attachment, or for offering links to the Internet for enrichment, additional practice, or follow-up activities that are immediately relevant to the lesson being provided.

  Electronic programs, due to their non-linear nature and larger storage capacity, also offer the ability to tailor the content directly to the needs of the student. Embedded assessments can give the student direct feedback and provide guidance for practice for skills mastery, while likewise giving teachers immediate information on how a student is performing. Classroom management software is becoming increasingly common in state-adopted programs, and when integrated with student workstations this offers the potential benefits of greater efficiency and effectiveness for the classroom teacher.

- Cost. This is at the moment more of a potential benefit than a currently realized one. In concept, electronic materials allow a publisher to dispense with many of the costs traditionally associated with production, storage, and distribution. While the storage and transmission of digital information does have a cost, this cost is far less than that of hard-bound, traditional textbooks.

  However, to date cost savings associated with the production of digital alternatives to traditional texts have not been passed on to consumers. While there are a number of CD-ROM and Internet-based alternative versions of state-adopted texts available on the online price list maintained by the CDE, nearly all of these alternatives cost districts the same as the base text. There are a variety of reasons for this, some of which are addressed in the “challenges” section below. In the future, however, publishers that publish programs that are entirely or mostly digital may be able to offer their customers lower-priced alternatives to programs that rely primarily on a traditional hardbound textbook model. An example of this is the Scott Foresman history–social science program that was adopted in 2005. This kindergarten through grade five program had a large digital component that accompanied a smaller consumable student edition textbook, which the publisher was able to offer to districts at a price that was lower than most of the alternative choices at the same grade levels.[7]

- Weight. AB 2532, by Assembly Member Pacheco, Chapter 1096 of the Statutes of 2002, required the SBE to adopt maximum weight standards for elementary

[7] Source: online price lists of adopted instructional materials, CDE Web site at <http://www.cde.ca.gov/ci/cr/cf/ap1/plsearch.asp> (May 21, 2007).

and secondary school textbooks. This legislation specifically required the SBE to take into consideration the health risks to students when devising these new standards.

The SBE adopted weight standards at its meeting on May 12, 2004, that set threshold weights for textbooks in three grade ranges from kindergarten through grade twelve. These threshold weights were 3 lbs. for kindergarten through grade four, 4 lbs. for grades five through eight, and 5 lbs. for grades nine through twelve. Publishers that sold books in excess of those threshold weights were required to offer a lower-weight alternative that a district could elect to purchase. These alternatives included, but were not limited to, split volume editions, classroom sets, and electronic editions.

Electronic editions of texts delivered on an optical disk, flash memory drive, or via connection to the Internet or a central server offer the advantage of greatly reducing the weight carried by a student. A single optical disk or flash memory drive can easily hold the contents of a student's entire complement of textbooks, although digital rights management issues may preclude companies from allowing their content to be consolidated on a single device. For most electronic versions, students would still have to carry homework assignments or workbooks with them, but it is theoretically possible to remove even that burden, as students could either e-mail completed work directly to a teacher or central server, or complete their work on a home machine and save it to a flash memory drive.

- Replacement. Electronic editions have the advantage of being easily duplicated and replaced. In most cases, electronic editions of texts are provided to districts via a license, typically based either on a specific site using the program, or on the number of copies or workstations that will use the content. Thus it is the right to access the content, not the delivery device, that the district is purchasing. Replacing a lost CD-ROM, depending on the terms of the contract with the publisher, could involve a lower cost compared to that of replacing a hardbound book.

The benefits described above offer compelling reasons to consider technology-based alternatives to traditional text-based materials. However, there are also numerous challenges that must be considered when looking at these alternatives.

- Equity. This is perhaps the greatest single challenge confronting those who advocate for greater use of technology-based materials. Assuming that the student requires access to the instructional content both at the school site and at home, most digital solutions require that the student have access to a personal computer in both locations, often with a broadband Internet connection. While recent National Center for Education Statistics (NCES) data indicates that over 70 percent of students use a personal computer at home[8], that leaves a very

[8] National Center for Education Statistics, Digest of Education Statistics: 2005, online at <http://nces.ed.gov/programs/digest/d05/tables/dt05_419.asp> (May 15, 2007).

significant student population that does not have the ability to access electronic content away from school. This is a particularly acute problem for students of lower socioeconomic backgrounds, who also often have the greatest need for flexible access to instructional content. While the gap between the percentage of white and non-white students using computers at school has narrowed in recent years, the gap between white and non-white students using computers at home remains significant.[9]

- Cost. This issue is listed both as a potential benefit and as a challenge. While the publication of digital content offers potential savings in terms of the production, storage, and distribution of materials, as described above, there are also costs associated with this model. In addition to the equity issue of ensuring that students have access to the hardware required to access the digital content, the large-scale implementation of electronic editions of instructional materials can often require districts to make substantial initial investments in creating a digital infrastructure to support that content. Server-based programs require that a school site be properly "wired" to support the distribution of that material to the classrooms and instructional workstations where the content is accessed. This may also require additional infrastructure to ensure that students have access to the materials at their homes or other remote sites (such as a library). Internet-based programs require reliable, broadband access. All of these systems may also require dedicated Information Technology (IT) professionals, and/or training of classroom teachers in the use and maintenance of the technology infrastructure. Reliability is a key concern, as a system that malfunctions can result in students not being able to access the instructional content that they need for mastery of the state academic content standards.

- Teacher Training. While all instructional materials programs require professional development, electronic programs often require specialized, supplemental training to enable teachers to utilize the program effectively. As noted above, classroom teachers may also require training in the use and maintenance of the technology infrastructure implemented in the classroom, including the use of school networks, student and teacher workstations, licensed software, and the Internet. Teachers should not be expected to become IT experts, but teachers using electronic materials can be expected to deal with questions from students about computer hardware and software that others using traditional print materials may not need to confront.

- Digital Rights/Copyright Issues. One of the advantages of digital files is that they can be copied easily and cheaply. These files can also be transmitted at negligible costs in power, storage, and bandwidth between computers, especially through the use of the Internet.

[9] Ibid., see <http://nces.ed.gov/programs/digest/d05/tables/dt05_420.asp>. For example, the NCES data shows that in 1993, 63.8 percent of white students used computers at school, compared to 50.6 percent of black students. In 2003, the same numbers were 84.9 percent and 82.5 percent respectively. However, in 2003 the gap for students using computers at home remained striking; while 78.3 percent of white students use computers at home, only 46.2 percent of black students do so.

These advantages also pose a challenge for the publishers of electronic instructional materials. The very features that made technology-based materials appealing can also create problems with the protection of the content, in terms of copyright infringement and unauthorized duplication. Publishers need to ensure that their materials cannot be copied without specific authorization within the license agreement between the publisher and consumer (i.e. the district, school, teacher, and student). Most districts have IT policies that prohibit the illegal distribution of copyrighted digital material, but not all teachers may be aware of the implications of copyright law or fair use exemptions, and likewise technology-savvy students may find ways to use electronic materials in ways other than for which they were intended.

Publishers are also confronted with issues related to the digital rights of their materials. Modern intellectual property contracts typically allow for the separate sale of print and digital rights; having the rights to include a photograph in the print version of a text, for example, does not always allow for the publication of that identical resource in digital form.

- Portability. A textbook can be taken nearly anywhere, and its content accessed easily. However, electronic editions on a CD-ROM or a flash memory drive can only be accessed in locations where there is a computer with the hardware and software capable of accessing the device and its content. While laptop computers issued to students may help address this issue, they also raise questions of cost and durability. This may require some planning ahead by teachers, students, and parents to ensure that students have access to the resources that they need to complete their work.

- Health Issues. Another concern with regards to electronic materials is the question of eye strain from long-term computer use. While monitors have improved in recent years, with screen resolution and refresh rates increasing, studies have shown that individuals that spend long periods of time using computers risk eye strain. A study published in 2002 by researchers at the University of California Berkeley, School of Optometry showed that children who used computers risk experiencing eye strain when using computers for several hours per day. Children are also susceptible to a condition known as “Computer Vision Syndrome” (CVS). Symptoms of CVS can include headaches, dry and itchy eyes, fatigue, blurred vision, and neck and shoulder pain. The American Optometric Association has noted that children are often more likely to suffer from eye strain than adults, because of their comparatively limited self-awareness, the fact that computer workstations are more commonly designed for adults than for children, and suboptimal lighting in many places where children use computers.[10]

[10] Peggy Noonan, “Kids’ Eyes: Computer Vision Syndrome,” USA Today Weekend.com (June 2, 2002), <http://www.usaweekend.com/02_issues/020602/020602health_briefs.html> (May 22, 2007); Porter Novelli, “Study finds direct link between computer use and vision problems in children,” ScienceBlog (March 2002), <http://www.scienceblog.com/community/older/2002/D/ 20024708.html> (May 22, 2007); Joan Guetschow, “Children May be at Risk for Computer Vision Syndrome”, ergoweb.com (November 6,

Several companies are working on different varieties of “electronic paper” (e-paper), a technology that relies on surfaces that can hold a static image without using electricity, but with the ability to change the content when needed. Electronic paper reflects light in the same manner as a printed page and does not cause eye strain the way that a backlit screen can, but the technology is still fairly new in terms of consumer application. There are a few e-paper readers available on the market as of the time of this writing, but they are expensive and are limited in the number of formats that they can display.

Data

An examination of the SBE adoption lists for the core subject, standards-aligned adoptions since 2000 shows that the number of electronic editions of adopted instructional materials on the lists has increased in the last two years. Table 1 below summarizes the number of programs put on the list for each adoption, and indicates which of those programs included an electronic format of the text.

Most of the electronic editions included on the list were alternate formats of the adopted print textbook, either on an optical disk (CD or DVD-ROM) or online. There have also been a growing number of programs that have an integrated electronic component, or are entirely electronic in nature.

Ancillary components, such as test generators, student practice programs, or classroom organizer software, were not included in this report, but such materials are part of almost every program submitted to the SBE for the last several adoptions. The CDE maintains an online price list of all adopted instructional materials. This searchable database includes a column that indicates whether a given component is electronic in nature.

A complete list of all of the programs included in the totals in Table 1 is included as Appendix A to this report.

2000), <http://www.ergoweb.com/news/ detail.cfm?id=201> (May 22, 2007); American Optometric Association, “Impact of Computer Use on Children's Vision”, < http://www.aoa.org/x5379.xml> (May 22, 2007).

Table 1: Electronic Editions of State-Adopted Textbooks, 2000-2007

Year	Subject	Number of Programs Adopted	CD/DVD-ROM Texts	Online Texts	Integrated Electronic
2000	Science	6	0	1	0
2001	Mathematics	11	0	0	0
2002	Reading/Language Arts/English Language Development (RLA/ELD)				
	Basic Programs	6	0	0	0
	Intervention Programs	5	0	0	1
2005	Mathematics Follow-Up	3	2	0	0
2005	RLA/ELD Follow-Up				
	Basic Programs	0	0	0	0
	Intervention Programs	4	1	0	0
2005	History–Social Science	10	9	1	1
2006	Science	11	5	3	0
2007	Mathematics (submitted)				
	Basic Programs	24	10	2	3
	Intervention Programs	12	1	1	5
	Algebra Readiness Programs	18	3	1	5
	TOTALS	109	31	9	15

Number of Programs Adopted: programs adopted by the SBE, with the exception of the 2007 Mathematics Adoption, which shows programs submitted for review but not yet adopted.
CD/DVD-ROM Texts: indicates programs that provide the option to purchase a copy of the student edition text on an optical disk.
Online Texts: indicates programs that provide the option to access the student edition text online.
Integrated Electronic: indicates programs that have an integrated electronic component, and which require that students access that component to implement the instructional program.

Conclusions

While the technology to deliver electronic versions of instructional content is not new, the appearance of electronic formats on the SBE lists of adopted instructional materials is a fairly recent phenomenon. One reason for this may be that publishers of electronic materials were not ready to submit electronic formats so quickly after the adoption of the state academic content standards in 1997 and 1998. A look at the submission lists for the first standards-aligned adoptions, compared to the second adoption following the adoption of standards, shows that a smaller percentage of the programs that were submitted were adopted in the first adoption.[11] Furthermore, many of the publishers that have submitted electronic editions in the more recent adoptions are smaller publishers, which may have required more time to prepare versions of their programs that are fully aligned to the California content standards.

[11] For example, the 2000 Science Primary Adoption had 6 programs adopted out of 16 submitted. The 2006 Science Primary Adoption had 11 programs adopted out of 12 submitted.

Another reason may be the increased presence of the electronic hardware needed to access technology-based instructional content in classrooms. As noted earlier in this report, an overwhelming majority of California classrooms today have computers and are connected to the Internet. However, these numbers were much lower just a few years ago.[12] The number of students per computer has fallen from 6.7 in 2002 to 4.8 in 2006.[13] Similarly, the penetration of personal computers into the home has dramatically increased in just the last few years. As computers continue to proliferate, and costs decline, it is reasonable to expect that demand for electronic editions of instructional materials will continue to increase.

Given these realities, the SBE should pursue policies that continue to support the expansion of electronic editions, while ensuring that electronic content remains accurate, aligned to standards, and in compliance with the SBE's evaluation criteria for instructional materials. These policies may include:

- Continuing to adopt evaluation criteria that support the use of technology-based materials as an avenue toward mastery of standards. The SBE should be aware when adopting criteria that electronic materials may address issues of content, program organization, assessment, universal access, and instructional planning and support differently than traditional print-based materials.

- Providing information on the use of electronic editions of instructional materials in the curriculum frameworks adopted by the SBE.

- Supporting professional development for teachers in the use of electronic instructional materials.

- Supporting the use of electronic editions as a way for publishers to meet the requirements of the maximum weight standards adopted by the SBE in May 2004.

- Supporting the separate funding of technology infrastructure for schools, including high-speed networks, laptops for children, computer labs, and other resources that will help districts and schools when deciding when and how to implement electronic instructional materials.

As with any new technology or instructional technique, it will take some time before all of the concerns with the use of electronic instructional materials are fully addressed. But electronic versions of instructional materials offer the potential of improving access to a standards-based curriculum for all students, which ultimately will translate into improved academic achievement.

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[12] National data shows that the percentage of students who used computers at school rose from 60.1% in 1993, to 70.4% in 1998, and to 83.5% in 2003. National Center for Education Statistics, Digest of Education Statistics: 2005, online at <http://nces.ed.gov/programs/digest/d05/tables/dt05_420.asp> (May 15, 2007).

[13] California Department of Education, Fact Book 2002: Handbook of Education Information (Sacramento: 2002), p. 24; Fact Book 2006, p. 24.

Appendix A: Electronic Editions of State-Adopted Instructional Materials

The following table details the materials that were reviewed in the preparation of this report.

Year	Subject	Publisher	Grade Levels	CD/DVD-ROM Texts	Online Texts	Integrated Electronic
2000	**Science**					
		Glencoe/McGraw-Hill	6-8			
		Harcourt School Publishers	K-5			
		Holt, Rinehart and Winston	6-8		•	
		Houghton Mifflin	K-5			
		McGraw-Hill	K-6			
		Prentice-Hall	6-8			
		TOTALS	**6**	**0**	**1**	**0**
2001	**Mathematics**					
		CSL Associates	K-5			
		Harcourt School Publishers	K-6			
		Houghton Mifflin	K-5			
		McDougal Littell (Concepts and Skills)	6-8			
		McDougal Littell (Structure and Method)	6-8			
		McGraw-Hill	K-6			
		Prentice-Hall	7-8			
		Sadlier-Oxford	K-6			
		Saxon Publishers (Saxon Math K-3)	K-3			
		Saxon Publishers (Math 54, 65, 76, and 87)	3-6			
		Scott Foresman	K-6			
		TOTALS	**11**	**0**	**0**	**0**
2002	**Reading/Language Arts/English Language Development (RLA/ELD)**					
		Basic Programs				
		Glencoe/McGraw-Hill	6-8			
		Holt, Rinehart and Winston	6-8			
		Houghton Mifflin	K-6			
		McDougal Littell	6-8			
		Prentice-Hall	6-8			
		SRA/McGraw-Hill	K-6			
		TOTALS	**6**	**0**	**0**	**0**
		Intervention Programs				
		Glencoe/McGraw-Hill				
		Hampton Brown				
		Scholastic				•
		SRA/McGraw-Hill				
		Wright Group/McGraw-Hill				
		TOTALS	**5**	**0**	**0**	**1**

Year	Subject	Publisher	Grade Levels	CD/DVD-ROM Texts	Online Texts	Integrated Electronic
2005	**Mathematics Follow-Up**					
		CGP Education	**8**			
		Glencoe/McGraw-Hill	**6-8**	•		
		McDougal Littell	**7**	•		
		TOTALS	**3**	**2**	**0**	**0**
2005	**RLA/ELD Follow-Up**					
	Intervention Programs					
		Pearson Longman	**4-8**			
		Sopris West	**4-8**	•		
		Voyager	**4-8**			
		Wright Group	**4-8**			
		TOTALS	**4**	**1**	**0**	**0**
2005	**History–Social Science**					
		Glencoe/McGraw-Hill	**6-8**	•		
		Harcourt School Publishers	**K-6**	•		
		Holt, Rinehart and Winston	**6-8**	•	•	
		Houghton Mifflin	**K-6**	•		
		Macmillan/McGraw-Hill	**K-6**	•		
		McDougal Littell	**6-8**	•		
		Oxford University Press	**5-8**	•		
		Pearson Prentice Hall	**6-8**	•		
		Pearson Scott Foresman	**K-5**	•		•
		Teachers' Curriculum Institute	**6-8**			
		TOTALS	**10**	**9**	**1**	**1**
2006	**Science**					
		CPO Science	**6-8**			
		Delta Education	**K-5**			
		Glencoe/McGraw-Hill	**6-8**	•		
		Harcourt School Publishers	**K-6**			
		Holt, Rinehart and Winston	**6-8**	•	•	
		Houghton Mifflin	**K-6**			
		It's About Time	**6, 8**			
		Macmillan/McGraw-Hill	**K-6**		•	
		McDougal Littell	**6-8**	•		
		Pearson Prentice Hall	**6-8**	•		
		Pearson Scott Foresman	**K-6**	•		
		TOTALS	**11**	**5**	**2**	**0**
2007	**Mathematics (submitted)**					
		Basic Programs				
		Carnegie Learning	**8**			•
		CGP Education	**6-8**			
		CMP Educational Program	**8**			
		Glencoe/McGraw-Hill	**6-8**	•		
		Harcourt School Publishers	**K-6**	•		

Year	Subject	Publisher	Grade Levels	CD/DVD-ROM Texts	Online Texts	Integrated Electronic
		Holt, Rinehart and Winston	**6-8**	•		
		Houghton Mifflin	**K-6**		•	
		JRL Enterprises	**6-8**			•
		Key Curriculum Press	**8**			
		Kinetic Books	**8**			•
		Macmillan/McGraw-Hill	**K-6**	•		
		Marshall Cavendish	**K-5**			
		McDougal Littell (CA Math)	**6-8**	•		
		McDougal Littell (Structure and Method)	**6-8**			
		McDougal Littell (Pre-Algebra and Algebra 1)	**7-8**	•		
		Pearson Prentice Hall (CA Mathematics)	**6-8**	•		
		Pearson Prentice Hall (Algebra 1)	**8**			
		Pearson Scott Foresman	**K-6**	•		
		Sadlier-Oxford	**K-6**	•		
		Saxon	**K-6**			
		SRA/McGraw-Hill	**K-6**	•	•	
		TPS Publishing	**K-3**			
		Wright Group/McGraw-Hill (UCSMP)	**7-8**			
		Wright Group/McGraw-Hill (Everyday Mathematics)	**K-6**			
		TOTALS	**24**	**10**	**2**	**3**
	Intervention Programs					
		Advanced Academics	**4-7**			•
		Compass Learning	**4-7**			•
		Glencoe/McGraw-Hill	**4-7**	•		
		Harcourt School Publishers	**4-7**			
		iLearn	**4-7**			•
		InfoSys	**4-7**			•
		Kaplan Learning Services	**4-7**			
		Mastery Learning Systems	**4-7**			
		Pearson Scott Foreman	**4-7**			
		Riverdeep	**4-7**			•
		SRA/McGraw-Hill	**4-7**		•	
		Wright Group/McGraw-Hill	**4-7**			
		TOTALS	**12**	**1**	**1**	**5**
	Algebra Readiness					
		Advanced Academics	**8**			•
		America's Choice	**8**			
		Carnegie Learning	**8**			•
		Compass Learning	**8**			•
		Glencoe/McGraw-Hill	**8**	•		
		Holt, Rinehart and Winston	**8**			
		iLearn	**8**			•

Year	Subject	Publisher	Grade Levels	CD/DVD-ROM Texts	Online Texts	Integrated Electronic
		JRL Enterprises	**8**			•
		Learning to Learn	**8**			
		McDougal Littell	**8**			
		Pearson Prentice Hall (Connecting to Algebra)	**8**			
		Pearson Prentice Hall (CA Algebra Readiness)	**8**	•		
		SRA/McGraw-Hill	**8**		•	
		Teacher Created Materials	**8**			
		The Princeton Review	**8**			
		UCLA Mathematics Department	**8**	•		
		TOTALS	**16**	**3**	**1**	**5**
		GRAND TOTALS	**109**	**31**	**9**	**15**

ITEM #~~#~~#17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Textbook Weight Standards: Adoption of Proposed Title 5 Regulations, Section 9517.2.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The 45-day public comment period has not closed. CDE's recommendation will be provided in an Item Addendum.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

- July 9, 2003: The SBE received a report on textbook weight, and directed staff to work with the Curriculum Development and Supplemental Materials Commission (Curriculum Commission) to review the data findings and options related to this issue, and to have the Curriculum Commission compile a recommendation report to the SBE.

- May 12, 2004: The SBE received the report entitled, "Textbook Weight in California: Analysis and Recommendations," and approved the recommendations of the Curriculum Commission to set maximum threshold weights for instructional materials.

- May 10, 2007: The SBE approved the proposed regulations, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking, and directed staff to conduct a public hearing and commence the rulemaking process.

SUMMARY OF KEY ISSUES

Assembly Bill 2532, authored by Assembly member Pacheco, Chapter 1096, Statutes of 2002, required the SBE to adopt maximum weight standards for elementary and secondary school textbooks by July 1, 2004. This legislation specifically required the SBE to take into consideration the health risks to students when devising these new standards.

SUMMARY OF KEY ISSUES (Cont.)

Following the SBE's initial examination of this issue at its July 2003 meeting, a "working group" of stakeholders, members of the Curriculum Commission, and CDE staff convened to discuss the data findings and options. The Executive Committee of the Curriculum Commission discussed the issue at its November 2003 meeting, and at its meeting of January 15, 2004, received a presentation from MeadWestvaco on the implication of using lighter basis weight papers in textbooks. At their meeting of April 9, 2004, the Curriculum Commission reviewed a revised version of the textbook weight report that incorporated recommendations developed by the CDE, and moved to adopt final recommendations to forward to the SBE at its May 2004 meeting.

The recommendations of the Curriculum Commission were included in a report entitled, "Textbook Weight in California: Analysis and Recommendations." The Curriculum Commission found, and the SBE agreed, that no single program is excessive, but that together all present a danger. However, the report demonstrated that setting an absolute weight cap alone was not the answer to the complicated issue of student burdens. Instead, the SBE decided to require publishers to provide local districts with options for lighter-weight materials. The SBE adopted the following threshold weights for kindergarten through grade twelve:

- **Grades K-4: 3 lbs**
- **Grades 5-8: 4 lbs**
- **Grades 9-12: 5 lbs**

Any publisher that submitted materials in excess of these weights would have to provide a lower-weight alternative that districts could select when making their instructional materials purchases.

The proposed regulations will create a new Section 9517.2 of the *California Code of Regulations* (*CCR*), Title 5, Division I, which will be adopted pursuant to the APA.

A 45-day period of public comment was initiated on May 26, 2007. Consistent with the requirements of the APA, on July 9, 2007, a public hearing was held at the CDE, 1430 N Street, Room 1801, Sacramento, CA 95814. All comments received during the public comment period and at the public hearing have been forwarded to the SBE for consideration. An audio recording of the public hearing was made and Kathy Dobson, of the SBE office, will provide a copy to any SBE member upon request.

A Final Statement of Reasons that responds to any comments made during the public comment period or at the public hearing will be submitted as an item addendum.

Because the public comments may affect the final version of the regulations submitted to the SBE, the final recommended version of the regulations will also be submitted as an item addendum following the July 9, 2007, public hearing.

FISCAL ANALYSIS (AS APPROPRIATE)

An Economic and Fiscal Impact Statement was submitted as an addendum to the May 2007 SBE Item. That document stated that the proposed regulations would have no impact upon the state, local government, or the private sector.

ATTACHMENT(S)

Attachment 1: Title 5. Education, Division 1, California Department of Education, Chapter 9, Textbook Weight Standards, proposed regulations approved by the SBE on May 10, 2007 (2 Pages)

Attachment 2: Title 5. Education, Division 1, California Department of Education, Chapter 9, Textbook Weight Standards (revised) will be provided as an item addendum.

Attachment 3: Final Statement of Reasons will be provided as an item addendum.

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 9. Instructional Materials

Article 2.1. Adoption of Curriculum Frameworks and Instructional Materials - Procedures

§ 9517.2. Textbook Weight Standards.

(a) For the purposes of this section, a "textbook" means a book adopted by a governing board for use by students as the principal learning resource for a course.

(b) The following maximum weight standards are in effect for each student textbook in elementary and secondary schools:

(1) Grades K-4: Three Pounds

(2) Grades 5-8: Four Pounds

(3) Grades 9-12: Five Pounds

(c) Publishers and manufacturers submitting textbooks for adoption by the State Board of Education for kindergarten through grade eight that exceed the maximum weight standards listed above shall provide at least one alternative for lighter weight materials with identical content. These lighter weight alternatives may include, but are not limited to, split volumes, electronic editions, softcover editions or other alternate physical formats. The lighter weight alternative must be identified by the publisher when they submit their bid forms to the California Department of Education (CDE) as part of the instructional materials adoption.

(d) For materials for grades nine through twelve, the availability of lighter weight alternatives must be disclosed to local education agencies prior to local governing board adoption of textbooks.

(e) The following are exceptions to the maximum weight standards listed in subdivision (b) above:

(1) Materials prepared in large-print, Braille, or other materials specifically designed to provide accessibility for students with disabilities, are not subject to the maximum weight standards. This includes the materials prepared by the CDE's Clearinghouse for Specialized Media and Technology.

(2) Textbooks that are only used in the classroom, and are not required to be carried home or to other locations by students, are not subject to the maximum weight standards. This exception does not exempt districts from the requirements of Education Code section 60119.

(3) Textbooks that are primarily for use by the teacher are not subject to the maximum weight standards, unless students are required to carry the materials home or to other locations as part of the intended use of those textbooks.

NOTE: Authority cited: Section 49415, Education Code. Reference: Section 49415, Education Code.

3-15-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 9, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 17

SUBJECT: Textbook Weight Standards: Adoption of Proposed Title 5 Regulations, Section 9517.2.

RECOMMENDATION

On July 9, 2007, the 45-day public comment period on the proposed regulations ended and a public hearing was held to receive oral and written comments regarding the proposed regulations. A Final Statement of Reasons that responds to the comments received is attached. After careful review of all comments by program staff and legal counsel, the California Department of Education recommends that the State Board of Education (SBE) approve the regulations as proposed at the May 9, 2007, SBE meeting.

Enclosed is the following attachment for Agenda Item 17:

Attachment 2: Final Statement of Reasons (1 page)

FINAL STATEMENT OF REASONS

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed regulations implement the maximum textbook weight standards adopted by the State Board of Education (SBE) pursuant to Assembly Bill (AB) 2532.

AB 2532 required the SBE to adopt maximum weight standards for elementary and secondary school textbooks by July 1, 2004. This legislation specifically required the SBE to take into consideration the health risks to students when devising these new standards. The SBE took action to adopt weight standards on May 12, 2004.

A public hearing was held on July 9, 2007. One comment was received in writing during the 45-day public comment period. The author of that comment also provided a comment at the public hearing. Upon review of the comments received during the 45-day public comment period and at the public hearing, it was determined that no additional changes were warranted to the proposed regulations.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MAY 26, 2007 THROUGH JULY 9, 2007.

Comment: Dale Shimasaki of the Association of American Publishers (AAP) submitted a written comment and an oral comment at the July 9, 2007 public hearing. The written and oral comments were substantively identical. Mr. Shimasaki stated that the size and weight of textbooks are related to the requirements of the SBE, Curriculum Development and Supplemental Materials Commission, and the Legislature. These requirements include the content standards and curriculum frameworks in each subject area, the SBE's evaluation criteria, and specific legislative requirements in the *California Education Code*. Mr. Shimasaki stated that the AAP supports the proposed regulations implementing the SBE's textbook weight standards, but that it would be appropriate to revisit these standards in the future if content requirements exceed the ability to deliver materials within those standards.

Response: Since the AAP is in support of the current regulations, the CDE recommends that no changes be made in the draft regulations.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ITEM #~~#~~18

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Adoption of Kindergarten Through Grade Eight Instructional Materials: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations, Sections 9510-9530	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- 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 (APA);
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law for approval, and
- If any relevant comments to the proposed changes are received during the 15-day public comment period, CDE is directed to place the proposed regulations with changes on the SBE's September 2007 agenda for action.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

January 11, 2007: The SBE approved commencement of the rulemaking process for regulations regarding the adoption of kindergarten through grade eight instructional materials.

March 13, 2007: A public hearing was conducted.

May 2007: The amended regulations were originally scheduled for consideration at the SBE meeting, but the item was pulled to give more time to provide responses to the public comments received during the March 13, 2007, public hearing, and the 45-day comment period.

SUMMARY OF KEY ISSUES

Report on Public Hearing:

Consistent with the requirements of the ~~Administrative Procedure Act (~~APA~~)~~, the public hearing regarding the proposed amendments was scheduled for Wednesday, March 13, 2007, at the California Department of Education, 1430 N Street, Room 1101, Sacramento, California, beginning at 8:30 a.m. An audio tape of the public hearing was made and Kathy Dobson, of the SBE office, will provide a copy of the audiotape to any State Board member who would like a copy.

The public meeting was called to order at 8:40 a.m. on the prescribed date and at the prescribed location. Seven persons provided comments at the public hearing. The public hearing ended at 11:30 a.m.

Summary of Public Comments/Key Issues:

Extensive written comments received from 14 members of the public, commenting on various sections of the proposed regulations, were received during the 45-day public comment period that ended at 5:00 p.m. on Wednesday, March 13, 2007. The comments and responses will be summarized in a chart to be provided as an item addendum.

The extensive written and oral comments and responses from the March 13, 2007, public hearing will be summarized in a chart to be provided as an item addendum.

FISCAL ANALYSIS (AS APPROPRIATE)

A Fiscal Impact Statement was provided as a part of the initial rulemaking package.

ATTACHMENT(S)

Attachment 1: Final Statement of Reasons, Instructional Materials (1 page).

Attachment 2: *California Code of Regulations*
Title 5. EDUCATION
Division 1. California Department of Education
Chapter 9. Instructional Materials
Article 2. Adoption of Curriculum Frameworks, Evaluation Criteria and Instructional Materials – Procedures (~~34~~ 35 pages)

Attachment 3: Summary Chart of Written Comments Received During the 45-day Public Comment will be provided as an item addendum.

Attachment 4: Summary Chart of Written and Oral Comments Received During the March 13, 2007, Public Hearing will be provided as an item addendum.

FINAL STATEMENT OF REASONS
Instructional Materials

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed regulations set forth the process by which the State Board of Education (SBE) adopts curriculum frameworks, evaluation criteria, and instructional materials for kindergarten through grade eight.

These regulations currently found at *California Code of Regulations*, Title 5, Sections 9510–9530 have been revised, renumbered and reorganized to accurately reflect the procedures by which the adoption of kindergarten through grade eight curriculum frameworks, evaluation criteria and instructional materials takes place. It is necessary to adopt these regulations pursuant to the Administrative Procedure Act (APA) to ensure that the adoption process for kindergarten through grade eight is an open, public process, with clear timelines and procedures.

A public hearing was held on March 13, 2007. Several comments were received during the 45-day public comment period as well as at the public hearing. Upon review of the comments received during the 45-day public comment period and at the public hearing, it was determined that additional changes were warranted to the proposed regulations.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JANUARY 20, 2007 THROUGH MARCH 20, 2007.

The proposed regulations were made available to the public from January 20, 2007, through March 20, 2007, inclusive. Several comments were received which are addressed in the attached charts.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

3-20-07 [California Department of Education]

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Title 5. EDUCATION

Division 1. California Department of Education

Chapter 9. Instructional Materials

Article 2. Standards and Criteria for Adoption of Instructional Materials

Adoption of Curriculum Frameworks, Evaluation Criteria and Instructional Materials – Procedures

§ 9510. Definitions Standards and Criteria for Specific Subject Matter Adoptions.

For purposes of curriculum frameworks, evaluation criteria and instructional materials adoptions, the following definitions shall apply:

(a) "Adoption Report" is the final report reflecting the State Board of Education's (SBE) action on instructional materials submitted for adoption.

(b) "CDE" is the California Department of Education.

(c) "Content Standards" are those adopted by the SBE, pursuant to Education Code section 60605, et seq.

(d) "Curriculum Commission" is the Curriculum Development and Supplemental Materials Commission as referenced in Education Code section 33530.

(e)(n) "Curriculum Commission Advisory Report of Findings" is produced by the Curriculum Commission IMRs and CREs to indicate whether each set of instructional materials submitted for adoption meets the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The Curriculum Commission Advisory rReport of findings shall include, at a minimum:

(1) a recommendation for or against the adoption of each set of instructional materials. and

(2) if applicable, a list of edits and corrections that should be made to the instructional materials as a condition of adoption.

(f)(e) "Curriculum Commissioner" is an individual one of the persons appointed to the Curriculum Commission, pursuant to Education Code section 33530.

(g)(f) "Deliberations" means the time set forth in the Schedule of Significant Events

~~when Content Review Experts (CREs) and Instructional Materials Reviewers (IMRs) assemble into review panels and meet in open public meetings to discuss and make recommendations regarding the instructional materials submitted for adoption and to develop a report of findings.~~

~~(h)(k) "Edits and corrections" are changes that must be made to submitted instructional materials to meet the social content standards, to ensure accuracy, or to achieve clarity and that are minimal in number, and include, but are not limited to:~~

~~(1) Misquoted content standards;~~

~~(2) Imprecise definitions;~~

~~(3) Mislabeled pictures or objects;~~

~~(4) Grammatical errors or misspellings;~~

~~(5) Simple factual errors;~~

~~(6) Computational errors.~~

~~(i)(g) "Evaluation criteria" are adopted by the SBE for the evaluation of submitted instructional materials, pursuant to Education Code section 60005(c)(2).~~

~~(j) "Executive Committee" is a subcommittee of the Curriculum Commission that is comprised of the chairperson and vice chairperson of the Curriculum Commission and 3 other Curriculum Commissioners chosen by the Curriculum Commission, with the primary purpose of advising the Curriculum Commission on issues related to internal governance of the Curriculum Commission and its subcommittees and advisory groups.~~

~~(k) "Facilitator" is a Curriculum Commissioner, former Curriculum Commissioner, IMR or CDE employee assigned by the Curriculum Commission to help each IMR/CRE review panel organize and reach consensus during deliberations. The SBE must approve the participation of any facilitator who is not a current Curriculum Commissioner~~

~~(l)(h) "Free instructional materials or gratis items" refer to adopted instructional materials provided at no cost by a publisher to a county office of education, district board, elementary school, middle school or high school.~~

~~(m) "IMR/CRE Report of Findings" is compiled by CDE and contains the determinations of all the IMR and CRE review panels as to whether the instructional materials~~

~~reviewed by each panel meet the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The report shall include, at a minimum:~~

~~(1) a recommendation for or against the adoption of each set of instructional materials, and~~

~~(2) if applicable, a list of edits and corrections that should be made to the instructional materials as a condition of adoption.~~

~~(n)(i) "Invitation to Submit Instructional Materials" (Invitation to Submit) is the document prepared by the CDE for each instructional materials adoption that:~~

~~(1) identifies the applicable content standards, curriculum framework and evaluation criteria for the adoption;~~

~~(2) sets out the statutes, regulations, specifications and timelines that govern the adoption process,; and~~

~~(3) invites publishers to participate in the process.~~

~~(o)(j) "Learning Resources Display Center" (LRDC) is where instructional materials, and curriculum frameworks and evaluation criteria that are submitted for adoption shall be available for public viewing, pursuant to Education Code section 60202.~~

~~(p)(l) "Period of adoption" is the length of time established by the SBE, as set forth in the Schedule of Significant Events, that instructional materials adopted by the SBE shall be available for procurement, pursuant to Education Code section 60200(i)~~

~~(q)(m) "Publisher" is any company, person, or entity that submits instructional materials for adoption.~~

~~(r)(o) "Rewrites" are extensive changes that would need to be made to instructional materials in order for them to meet the content standards, curriculum frameworks, evaluation criteria or social content standards and include, but are not limited to:~~

~~(1) Revising a paragraph, page, section or chapter;~~

~~(2) Adding new content;~~

~~(3) Moving materials from one grade level to another.~~

~~(s)(p) "Schedule of Significant Events" is a timeline adopted by the SBE for each instructional materials adoption that sets out the dates for key events that will take~~

~~place during the adoption. The Schedule of Significant Events is included in the Invitation to Submit document and is posted on the CDE website.~~

~~(t)(q) "Social content standards" are those set forth in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition.~~

~~(u) "Standards maps" are templates prepared by the CDE for each adoption that must be completed by publishers submitting instructional materials for adoption and are designed to determine if instructional materials meet the content standards. The standards maps are available on the CDE website.~~

~~(v) "Subject Matter Committees" are subcommittees of the Curriculum Commission composed of Curriculum Commissioners, whose members are selected by the Curriculum Commission, each with the primary purpose of assisting the Curriculum Commission in making recommendations on matters related to a particular subject matter area and shall exist for the following subject matter areas:~~

~~(1) Foreign Language~~

~~(2) History-Social Science~~

~~(3) Mathematics~~

~~(4) Physical Education~~

~~(5) Reading/Language Arts~~

~~(6) Science~~

~~(7) Visual/Performing Arts~~

~~(8) Health~~

~~NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Chapters 1 and 2 of Part 33 of Title 2, Sections 33530, 60010, 60048, 60061, 60200, 60202, 60204 and 60605, Education Code.~~

~~§ 9510.5. Internal Governance of the Curriculum Commission~~

~~The Curriculum Commission, through its own bylaws, approved by the SBE, shall provide for its internal governance, including, but not limited to, the election of its officers and the establishment of its subcommittees and advisory groups.~~

~~NOTE: Authority cited: Sections 33031, 60005, 60204 and 60206, Education Code.~~

~~Reference: Section 33003 and 60206, Education Code.~~

~~§ 9511. Standards and Criteria for All Subject Matter Adoptions~~ ~~Curriculum Framework and Evaluation Criteria Committee Establishment, Composition and Membership Qualifications~~.

~~The standards and criteria in the publication entitled *Standards for Evaluating the Social Content of Instructional Materials*, 2000 Edition, approved by the State Board of Education on January 13, 2000, and published by the California State Department of Education in 2000 are incorporated in this section by reference and apply to all State Board of Education adoptions of instructional materials in all subjects.~~

~~(a) At the SBE's request, the Curriculum Commission shall recommend a curriculum framework and evaluation criteria to the SBE.~~

~~(b)(a) The SBE may establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the process of reviewing and/or developing a curriculum framework and evaluation criteria for a particular content field and to makeing a recommendation to the Subject Matter Committee, Curriculum Commission and SBE regarding a curriculum framework and evaluation criteria.~~

~~(c) When the SBE requests that the Curriculum Commission recommend a curriculum framework and evaluation criteria, the CDE shall convene four public focus groups of educators in different regions of California to provide comment to the Curriculum Commission, the CFCC (if established), and the SBE.~~

~~(d)(b) The CFCC shall be composed of a minimum of 9 to a maximum of 20 members appointed by the SBE.~~

~~(e)(c) The Curriculum Commission shall make recommendations to the SBE on appointing CFCC members according to the qualifications stated below. The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the public according to the qualifications stated below.~~

~~(f) A majority of CFCC members, at the time of appointment, shall be classroom teachers or mentor teachers currently assigned to teach kindergarten or grades 1-12. At least one classroom or mentor teacher shall have experience in providing instruction~~

~~to English Learners, and at least one classroom or mentor teacher shall have experience in providing instruction to students with disabilities.~~

~~(g)(d) CFCC members who are classroom or mentor teachers shall have subject matter expertise in and professional knowledge of, and successful experience with, and expertise in, standards-basedeffective educational programs and practices in the content field under consideration.~~

~~(h)(e) Other CFCC members may be administrators, parents, local school board members, and members of the public.A majority of CFCC members, at the time of appointment, shall be classroom teachers, or mentor teachers, currently assigned to teach kindergarten or grades 1-12.~~

~~(i)(f) The SBE shall strive to appoint CFCC members who are reflective of the various ethnic groups, types of school districts, and regions in California. Nothing in this section shall preclude public members, i.e., non-educators, from serving as a CFCC member as the SBE may deem appropriate~~

~~(j) CFCC members shall receive training during public meetings from CDE staff and Curriculum Commissioners.~~

~~(k) CFCC members shall serve until they make their recommendations to the Curriculum Commission and SBE.~~

~~(l)(g) All CFCC members operate under the guidance and at the pleasure of the SBE.~~

~~NOTE: Authority cited: Sections 33031, 60005, 60048(d), 60200(o) and 60206, Education Code. Reference: Sections 60040-60044, 60048, 60200 and 60200.2,33530, and 60204, Education Code.~~

~~§9512. Appointment of Instructional Materials Reviewers and Content Review Experts.~~

~~(a) The SBE shall appoint Instructional Material Reviewers (IMRs), and Content Review Experts (CREs) to serve as advisors to the Curriculum Commission and SBE, in the review of instructional materials submitted for adoption.~~

~~(b) The Curriculum Commission shall make recommendations to the SBE on appointing IMRs and CREs according to the qualifications stated below. The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the~~

~~public according to the qualifications stated below.~~

~~(c) The primary qualification for IMRs shall be subject matter expertise and professional knowledge of, and successful experience with, effective educational programs and practices.~~

~~(c)(d) A majority of IMRs, at the time of appointment, shall be classroom teachers, or mentor teachers, currently assigned to teach kindergarten or grades 1-128 who have experience with, and expertise in, standards-based educational programs and practices in the content field under consideration. At least one classroom or mentor teacher shall have experience in providing instruction to English Learners, and at least one classroom or mentor teacher shall have experience in providing instruction to students with disabilities.~~

~~(d)(e) Other IMRs may be administrators, parents, local school board members, and members of the public.Nothing in this section shall preclude public members, i.e., non-educators, from serving as IMRs as the SBE may deem appropriate~~

~~(e)(f) When the instructional materials considered for adoption are in a content field other than reading/language arts and visual/performing arts, the CREs shall be experts in a content field who or related field:(1) hold a doctoral degree in that field or related field, or~~

~~(2) have a masters degree or higher in that field and 5 or more years of curriculum expertise in that field.~~

~~(f) When the instructional materials considered for adoption are in the content field of reading/language arts or visual/performing arts, the CREs shall have a masters degree or higher in that field and 5 or more years of experience with, and expertise in, standards-based educational programs and practices in that field.~~

~~(g) The SBE shall strive to appoint IMRs and CREs who are reflective of the various ethnic groups, types of school districts, and regions in California.~~

~~(h) IMRs and CREs shall receive training during public meetings from CDE staff and Curriculum Commissioners.~~

~~(i) IMRs and CREs shall serve until the SBE acts to adopt or not adopt the submitted instructional materials.~~

~~(j)(g) All IMRs and CREs operate under the guidance and at the pleasure of the SBE.~~

~~NOTE: Authority cited: Sections 33031, 60005, 60200, 60206, Education Code.~~

~~Reference: Sections 33530 and 60204, Education Code.~~

~~§9513. Application Process for Curriculum Framework and Evaluation Criteria Committee Members, Instructional Materials Reviewers and Content Review Experts.~~

~~(a) At least 90 days prior to before the scheduled date of appointment by the SBE, the CDE shall distribute application forms, approved as to form by the SBE, to become a CFCC member, an IMR, and or a CRE applications to districts, county offices, Learning Resources Display Centers (LRDCs) and others upon request, as well as posting the applications forms on the CDE website, to ensure sufficient time for interested parties to applications to be completed and submitted applications to the Curriculum Commission CDE by interested parties.~~

~~(b) The CDE shall assist the Subject Matter Committee and the Curriculum Commission in reviewing the submitted applications of CFCC members, IMRs, and CREs to ensure applications are complete before the Curriculum Commission makes its recommendations to the SBE.~~

~~(c) All completed applications, with the exception of personal information, shall be available for viewing at the CDE and SBE during normal business hours and at every public meeting at which the applications are considered.~~

~~(c) The SBE shall consider the recommendations of the Curriculum Commission, and appoint CFCC members, IMRs and CREs that in its view meet the qualifications set forth above.~~

~~NOTE: Authority Cited: Sections 33031, 60005, 60200 and 60206, Education Code.~~

~~Reference: Sections 33530 and 60204, Education Code.~~

~~§9514. Prohibited Communications.~~

~~(a) CFCC members during their tenure shall not release draft copies of the curriculum framework or evaluation criteria.~~

~~(a)(b) Publishers, or their representatives, shall not communicate with IMRs and CREs,~~

~~during their tenure, and IMRs and CREs, during their tenure, shall not communicate with publishers or their representatives, about anything related to the evaluation or adoption of instructional materials submitted for adoption, other than when publishers are making presentations or during the times for public comment in open public meetings. When publishers or their representatives, or IMRs or CREs, make a prohibited communication, Such communication outside of the times designated in the Schedule of Significant Events may result in the SBE may take corrective action, including disqualification of the publisher and IMR/CRE by the SBE from further participation in the subject adoption.~~

~~(c) Publishers, or their representatives, shall not communicate with Curriculum Commissioners about anything related to the evaluation or adoption of instructional materials, other than during the times for public comment in open public meetings, between the date set forth in the Schedule of Significant Events when instructional materials are delivered to IMRs, CREs and LRDCs and the date when the SBE takes action to adopt. Such contact may result in the disqualification of the publisher and the Curriculum Commissioner by the SBE from further participation in the subject adoption.~~

~~(b)(d) Notwithstanding the above prohibitions, IMRs, and CREs, and Curriculum Commissioners may contact publishers for technical assistance in using electronic instructional materials.~~

~~NOTE: Authority Cited: Sections 33031 and 60206, Education Code. Reference: Sections 33530, 60200 and 60204, Education Code.~~

~~§ 9515. Definitions~~ ~~Public Inspection of, and Comment on, Display of Curriculum Frameworks and Evaluation Criteria for Public Inspection and Comment.~~

~~(a) "Board means the State Board of Education.~~

~~(b) "Curriculum Commission" means the Curriculum Development and Supplemental Materials Commission.~~

~~(c) "Department" means the California Department of Education.~~

~~(d) "Schedule of Significant Events" means the dates promulgated by the Department in the "Invitation to Submit Basic Instructional Materials for Adoption in California."~~

~~(e) "Period of Adoption" means the period of time that the instructional materials shall remain in adoption. This time period shall be specified in the "Schedule of Significant Events."~~

~~(f) "Primary Adoption" means the first instructional materials adoption following the approval of new evaluation criteria by the Board.~~

~~(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission shall:~~

~~(1) receive a recommendation from the appropriate Subject Matter Committee;~~

~~(2) approve a draft curriculum framework and evaluation criteria;~~

~~(3) make the draft curriculum framework and evaluation criteria available for public review and comment for a minimum of 60 45 days. The CDE shall ensure that the draft curriculum framework and evaluation criteria is are posted on the CDE website for the entire period, and available at the LRDCs during this 45 day period; and~~

~~(4) hold at least one public meeting as referenced belowpublic review and comment period.~~

~~(b) After the Curriculum Commission recommends a curriculum framework and evaluation criteria to the SBE for adoption, the CDE shall ensure that the recommended curriculum framework and evaluation criteria are available on the CDE website and available at the LRDCs during a minimum 30 day period prior to SBE consideration for adoption.~~

~~(b)(c) Any comment from a member of the public person may comment submit a typewritten (or clearly legible handwritten) statement regarding the content of a draft curriculum framework and evaluation criteria that is received by to the Executive Director of the Curriculum Development and Supplemental Materials Commission, 1430 N Street, Suite 3207, Sacramento, California, 95814, postmarked not later than 14 10 days prior to the date set for the public meeting hearing at which the Curriculum Commission is scheduled to consider vote on whether to recommend the draft curriculum framework and evaluation criteria should be recommended to the SBE for adoption, will be distributed to members of the Curriculum Commission not later than 3 days before the meeting. Notice of the 14-day deadline, and the Executive Director's~~

~~mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs at least 60 days before the meeting.~~

~~(c) After the Curriculum Commission recommends a curriculum framework and evaluation criteria to the SBE for adoption, the CDE shall ensure that the recommended curriculum framework and evaluation criteria is posted on the CDE website for a 60-day period, and available at the LRDCs during this period, for public review and comment prior to consideration by SBE for adoption.~~

~~(d) Nothing in this section shall restrict a member of the public from directly addressing a state body at any public meeting, orally or in writing, relating to a curriculum framework and evaluation criteria.~~

~~NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200, 60201, 60202, and 60204, 60206, 60221, 60222 and 60227, Education Code; Section 11125.7, Government Code.~~

~~§9516. Advisory Task Forces and Committees to the Curriculum Commission Public Hearings Held by the Curriculum Commission and the SBE Regarding Curriculum Frameworks and Evaluation Criteria.~~

~~The Board may, upon recommendation by the Curriculum Commission, appoint task forces or committees of subject matter experts to assist and advise the Curriculum Commission. Each task force or committee shall include, at the time of appointment, a majority of current classroom teachers providing instruction in kindergarten and grades one to either, inclusive, or mentor teachers, or certificated teachers employed by school districts of county offices of education who are not in a position that requires a services credential with a specialization in administrative services, or any combination of those teachers. The primary criteria for membership shall be subject matter expertise and professional knowledge of, and successful experience with, effective educational programs and practices for the full range of the state's diverse population. The Board shall, to the extent possible, appoint persons who are representative of the various ethnic groups and types of school districts in the state. Nothing in this section shall preclude public members, i.e., noneducators, from serving on a task force or committee~~

~~as the Board may deem appropriate.~~

~~For purpose of developing a curriculum framework or for other activities not associated with the evaluation of basis instructional materials, the Board may expand the committees or task forces to include teachers who provide instruction in kindergarten and grades one to twelve, inclusive.~~

~~(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE for adoption, the Curriculum Commission shall hold at least one public hearing. To recommend a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission must and conduct a roll call vote with at least 9 affirmative votes for the recommendation required to recommend a curriculum framework and evaluation criteria to the SBE.~~

~~(b) Prior to adopting a curriculum framework and evaluation criteria, the SBE shall receive the recommendation of the Curriculum Commission and hold at least one public hearing.~~

~~NOTE: Authority cited: Sections 33031 and 60004~~60005 and 60206~~, Education Code.~~

~~Reference: Sections 3353~~60200 ~~and 60204, Education Code.~~

~~§9517. Invitation to Submit Basic Instructional Materials for Adoption.~~ Procedures for ~~Submitting Instructional Materials for Adoption.~~

~~The Board shall ensure that a written notice of an upcoming primary and follow-up adoption of instructional materials is posted on the Department Website and mailed to every person or firm who has submitted a request for notice to the Department and to any person or firm whom the Department, in its judgment, deems to be interested in the notice. This notice shall be known as the Invitation to Submit Basic Instructional Materials for Adoption in California. The failure to mail an invitation to any person as provided in this section shall not invalidate any action taken by the Board, Curriculum Commission, or Department.~~

~~With respect to the submission of instructional materials for adoption by the Board, publishers and manufacturers shall comply with the following requirements:~~

~~(a) Instructional materials may be submitted in any language, but essential teachers'~~

~~materials shall be included in English.~~

~~(b) Publishers and manufacturers shall indicate, either in the teacher's edition or in the student's edition or both, which literary works contained in the student's edition or teacher's edition have been abridged, adapted, or excerpted. Publishers and manufacturers shall provide detailed descriptions of these changes upon request by the Department or local educational agencies.~~

~~(c) Publishers and manufacturers shall list, either in the teacher's edition or in the student's edition or both, only authors, reviewers, consultants, advisors, field-test teachers, and others who actually contributed to the development of the materials and shall indicate, for those who are listed, in what capacity they served. Publishers and manufacturers shall provide additional related information upon request by the Department or local educational agencies.~~

~~(d) Education Code sections 32060-32066 prohibit the purchase of toxic art or craft supplies for grades kindergarten through six and allow their purchase for grades seven through twelve only if they display a warning label. Publishers and manufacturers shall ensure that all art or craft materials included or suggested in their instructional materials comply with the requirements of these Education Code sections.~~

~~(e) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, which is included in the Invitation to Submit Basic Instructional Materials for Adoption, publishers and manufacturers shall provide to the Department a list of all instructional materials that will be submitted for adoption. Receipt of submission information after this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless publishers or manufacturers can show extenuating and compelling circumstances beyond their control.~~

~~(f) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall deliver samples of instructional materials to the evaluators and locations specified by the Department. Failure to meet the deadline for delivery of samples shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher or manufacturer can show extenuating and compelling circumstances involving natural disasters or~~

~~independent carriers beyond the control of the publishers and manufacturers. In addition:~~

~~(1) Publishers and manufacturers shall deliver all samples in final form (i.e., a form that will be offered for purchase over the period of adoption) unless written permission to submit a sample in other than final form is obtained from the Department before any samples are shipped.~~

~~(2) Publishers and manufacturers shall deliver all samples free of shipping, handling, sampling, or other charges.~~

~~(3) After the final date for delivery of samples, changes or modifications to instructional materials during the adoption review period by the publisher or manufacturer shall result in disqualification of the materials from the adoption unless those changes or modifications are made pursuant to the Board's social content review or educational content review.~~

~~(4) Publishers and manufacturers shall retrieve samples of nonadopted instructional materials from display centers during the first thirty (30) days following the date of Board adoption. The deadline for retrieval shall be specified in the Schedule of Significant Events in the invitation. All materials shall be retrieved without any cost to the display center or its staff. Display center directors may dispose of or donate for educational use any samples of instructional materials not retrieved within the 30-day period. Board and Curriculum Commission members, instructional materials reviewers, and Department staff may offer their samples back to publishers and manufacturers, retain their samples, or donate them, provided that the materials are used to benefit public education in California.~~

~~(g) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall submit to the Department price quotations (bids) for the sale of completed materials, including all transportation costs.~~

~~(h) Publishers and manufacturers are discouraged from withdrawing from a state adoption after the submission of their materials. No publisher or manufacturer may withdraw their submitted instructional materials from a state adoption within seven working days prior to the beginning of the Instructional Materials Advisory Panel~~

~~educational content deliberations, which date(s) shall be specified in the Schedule of Significant Events. Publishers and manufacturers withdrawing prior to this date shall be so noted in the Curriculum Commission's report of adoption recommendations.~~

~~(i) Other than during the times specified in the Schedule of Significant Events, publishers and manufacturers shall not contact Instructional Materials Advisory Panel members during their tenure to discuss anything related to the state evaluation or state adoption of materials. Contact initiated by publishers or manufacturers regarding the evaluation or adoption of materials may lead to disqualification of the publisher's or manufacturer's materials from further consideration in the current adoption, legal action, or both. Instructional Materials Advisory Panel members shall not discuss materials under adoption consideration with publishers or manufacturers or their spokespeople or representatives.~~

~~(j) Publishers and manufacturers shall not publicize in printed marketing materials any part of the Instructional Materials Advisory Panel Report.~~

~~(k) Follow-up adoptions shall be based on the Invitation to Submit Basic Instructional Materials and evaluation criteria issued for the primary adoption. A new Schedule of Significant Events shall be approved prior to implementing a follow-up adoption.~~

~~(a) The CDE shall provide a copy of the Invitation to Submit to every publisher that submits a request and also make it available on its website.~~

~~(b) Publishers submitting instructional materials for SBE adoption shall comply with the Invitation to Submit.~~

~~(c) Publishers shall adhere to all dates and times set forth in the Schedule of Significant Events, as approved by the SBE.~~

~~(d) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE a CD-ROM and hard copy containing the following submission information (Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show the CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.):~~

~~(1) A list of all instructional materials that will be submitted for adoption.~~

~~(2) A short narrative description of the instructional materials that will be submitted. The description should not exceed 6 pages, single spaced.~~

~~(3) A description of the technology requirements that will be necessary to review the submitted instructional materials.~~

~~(4) Contact information for the publisher's primary contact for the adoption, a California contact, and a contact for technology-based matters.~~

~~(e) Upon its determination that the submission information is complete, the CDE will request samples of all instructional materials for evaluation.~~

~~(f) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE completed standards maps on a CD-ROM and in hard copy for all instructional materials that have been accepted for evaluation.~~

~~(g) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall deliver samples of all instructional materials that have been accepted for evaluation to the evaluators and locations specified by CDE. Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.~~

~~(h) Publishers shall deliver all samples free of shipping, handling, sampling, or other charges.~~

~~(i)(d) Publishers shall include in instructional materials submitted for adoption, only content standards approved by the SBE and specified in the evaluation criteria for the adoption. Adopted instructional materials shall not include references to national standards or standards from other states.~~

~~(j) Publishers shall list, in the teacher's edition and/or in the student's edition submitted for adoption, only authors, reviewers, consultants, advisors, field test teachers, and others who actually contributed to the development of the materials and the capacity in which they served.~~

~~(k)(e) Publishers shall submit all instructional materials in the same physical form that will be offered for purchase during the adoption period with the following exceptions:~~

(1) Audio recordings may be submitted in manuscript form;

(2) Artwork may appear in black and white that will ultimately appear in color in the instructional materials offered for purchase during the adoption period.

(3) Alternate formats as described in section 9528.

(l)(f) Publishers shall not change or modify instructional materials after the date specified in the Schedule of Significant Events for delivery of instructional materials to IMRs, CREs and LRDCs. Instructional materials changed or modified after this delivery date shall be disqualified from consideration in the Aadoption unless the changes or modifications are approved by the SBEmade pursuant to the SBE's direction.

(m) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers shall submit to the CDE price quotations for the sale of completed instructional materials, including all transportation costs.

(n) Publishers are discouraged from withdrawing their instructional materials from the adoption after the materials have been submitted. Any such withdrawal may be noted in the Curriculum Commission Advisory Report and Adoption Report.

(o)(g) Publishers shall not publicize in marketing materials any part of the IMR/CRE Report of Findings, Curriculum Commission Advisory Report of Findings or the Adoption Report.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200, 60201, 60202, 60204, 60206, 60221, and 60222, and 60227, Education Code.

§9517.1. Follow-Up Adoptions: Notice to Publishers and Manufacturers, Intent to Submit, Fee, List of Adopted Materials.

Follow-up adoptions shall be conducted according to the following requirements:

(a) The Board shall ensure that a written notice of an upcoming follow-up adoption in a given subject is posted on the Department Website and mailed to all publishers or manufacturers known to produce instructional materials in that subject. The notice shall include:

(1) A "Schedule of Significant Events."

~~(2) Specifications for "Intent to Submit."~~

~~(b) Each publisher or manufacturer shall provide an "Intent to Submit" that specifies the following:~~

~~(1) Number of programs that the publisher or manufacturer will submit.~~

~~(2) Number of grade levels covered by each program.~~

~~(c) Based on the specifications in subdivision (b) as reported in the "Intent to Submit," the Department shall assess a fee of $5,000 per grade level submitted for review.~~

~~(d) A "small publisher" or "small manufacturer," as defined in Education Code Section 50227(f)(3), may request a reduction of the fee by submitting documentation that includes, but is not limited to, the following:~~

~~(1) A statement of earnings for the most recent three fiscal years.~~

~~(2) Number of full-time employees excluding contracted employees.~~

~~(3) A statement verifying that the small publisher or small manufacturer is not dominant in its field for the subject matter being submitted for follow-up adoption.~~

~~(e) Instructional materials approved by the Board in a follow-up adoption shall be added to the existing adoption list for that subject and remain on the list until the established expiration date for that list.~~

~~NOTE: Authority cited: Sections 33031 and 60206, Education Code. Reference: Sections 60200, 60201, 60202, 60204, 60206, 60221, 60222 and 60227, Education Code.~~

~~§9518. Social Content Review of Instructional Materials~~ ~~Standards for All Instructional Materials Adoptions~~~~.~~

~~The standards and criteria in the publication entitled Standards for Evaluation of Instructional Materials with Respect to Social Content, referenced in Section 9511, shall apply to all instructional materials approved by the Board for compliance with social content requirements, as follows:~~

~~(a) Reviews of instructional materials for compliance with social content requirements may be conducted by the Department or its agent.~~

~~(b) The Department shall notify publishers or manufacturers in writing of approval of~~

~~instructional materials for compliance with social content requirements or any citations of noncompliance.~~

~~(c) If a publisher or manufacturer requests that their instructional materials be reviewed for compliance with social content requirements, and those materials are not concurrently being submitted for adoption, the Department or its agent may charge publishers and manufacturers a fee not to exceed the cost of the service for conducting a social content review and/or for including them in the list of instructional materials which have been approved by the Board for compliance with social content requirements. The list of approved materials shall be available to all school districts in the state. The publisher or manufacturer requesting such a review shall provide samples of instructional materials in completed form and in numbers to be determined by the Department.~~

~~(d) A publisher or manufacturer may appeal the decision of the Department or its agent to the Curriculum Commission. The following procedures apply:~~

~~(1) Within thirty (30) days from the postmark date of the Department's written notification to a publisher or manufacturer of noncompliance with social content requirements, a publisher or manufacturer shall notify the Department in writing of proposed revisions or intent to appeal.~~

~~(2) The appeal shall be limited to consideration of citations of noncompliance identified during the initial social content review.~~

~~(e) A publisher or manufacturer may appeal the decision of the Curriculum Commission to the Board.~~

~~(1) Within ten (10) days following the postmark date of the Curriculum Commission's written decision, a publisher or manufacturer shall notify the Curriculum Commission chairperson of any intent to appeal to the Board.~~

~~(2) An appeal to the Board shall be limited to consideration of revisions or issues raised during the first-level appeal.~~

~~(f) Instructional materials which have been approved for compliance with social content requirements shall not be re-evaluated unless the materials have changed substantively, or the Board's social content standards and criteria have been amended~~

~~to the extent that, in the judgment of the Board, a re-evaluation is necessary.~~

~~(g) Publishers and manufacturers shall not describe or represent as adopted by the Board those instructional materials which have passed only a social content review at the state level. Misrepresentation may result in deletion of the instructional materials from the list of materials approved for compliance with social content requirements.~~

~~The social content standards in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition, approved by the SBE on January 13, 2000, and maintained on the CDE website at http://www.cde.ca.gov/ci/cr/cf/lc.asp, are is incorporated in this section by reference and apply applies to all SBE adoptions of instructional materials in all subjects.~~

~~NOTE: Authority cited: Sections 33031, 60005, 60048, 60200 and 6000460206, Education Code. Reference: Sections 60040-60044, and60048, 60200 and 60200.2, Education Code.~~

~~§9519. Display of Instructional Materials Review Panels and Curriculum Commission Advisory Report and Curriculum Frameworks.~~

~~Before final adoption of any instructional materials, the Board shall make any instructional materials recommended for adoption available for public review for not less than thirty (30) days at display centers designated by the State Superintendent of Public Instruction. These dates shall be specified in the Schedule of Significant Events.~~

~~Samples of instructional materials adopted by the Board shall be available at display centers for a minimum of two years from the date specified in the Schedule of Significant Events.~~

~~Prior to recommending any curriculum frameworks to the Board for adoption, the Curriculum Commission shall ensure that copies of the curriculum framework are mailed to any person upon request to the Curriculum Commission. Copies shall also be available at specified display centers throughout the state.~~

~~Public comment forms shall be provided at the display centers and may be used for written statements regarding instructional materials and curriculum frameworks. Use of a public comment form to submit a written statement shall not be required.~~

~~(a) The CDE will propose and the Curriculum Commission shall approve, for each adoption of instructional materials, the organization of IMRs and CREs into review panels, the assignment of instructional materials to be evaluated by each review panel, and the assignment of a facilitator to each review panel.~~

~~(b) Each review panel shall be composed of 5 to 15 11 IMRs and CREs, of which a majority must be IMRs who are teachers and at least 1 must be a CRE.~~

~~(c) Each review panel must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria and social content standards.~~

~~(d) At the discretion of the chairperson of the Curriculum Commission, the chairperson of the Subject Matter Committee involved in the adoption or the Executive Director of the Curriculum Commission, a CRE or IMR with special expertise may respond to questions raised by review panels to which the CRE or IMR has not been assigned.~~

~~(e)(d) Each review panel shall decide which instructional materials to recommend for adoption.~~

~~(f)(e) Each review panel shall make recommendations as to edits and corrections that should be made to instructional materials.~~

~~(g)(f) Review panels shall not recommend rewrites of instructional materials.~~

~~(h)(g) Each review panel is encouraged to reach consensus on recommendations. If necessary, the panel will conduct a vote with a simple majority necessary to put forward a recommendation.~~

~~(i)(h) The recommendations of the review panels shall be compiled by the CDE into a document titled "IMR/CRE Report of Findings" that shall be presented to the Curriculum Commission. At least 10 days before the first meeting of the Curriculum Commission that follows the issuance of the IMR/CRE Report of Findings, the CDE shall distribute the IMR/CRE Report of Findings to the Curriculum Commission and post it on its website.~~

~~(j)(i) The Curriculum Commission, the CDE, and the SBE, or SBE staff may call upon IMRs, and CREs, or other experts to assist the Curriculum Commission or the SBE in understanding how instructional materials meet the content standards, curriculum~~

~~frameworks, evaluation criteria and social content standards.~~

~~NOTE: Authority cited: Sections 33031, 60005, and 6020660004, Education Code.~~

~~Reference: Sections 60200 and 6020460202, Education Code.~~

~~§9520. Written Statements to the Curriculum Commission Regarding Instructional Materials and Curriculum Frameworks Submitted for Adoption.~~

~~Any person may submit to the Curriculum Commission a written statement regarding any instructional materials or curriculum frameworks submitted for Board adoption, as follows:~~

~~(a) A statement of error appearing in the instructional materials or curriculum framework. The statement shall indicate the page, pages, or place in which the error appears, shall include a specification of the error, and, where possible, shall mention a responsible source of information from which the Curriculum Commission can confirm the existence of such error.~~

~~(b) A statement of objection to a specified item of content which shall include the page number of other identification of, and reference to, the item of content to which objection is made, and the grounds for the objection.~~

~~(c) Comments relating to any other factor of which the Curriculum Commission should be aware before making a decision to recommend the instructional materials or curriculum framework to the Board for adoption.~~

~~(d) A general objection to the adoption of the instructional materials or curriculum framework. The statement shall include a brief statement of the objection and evidence or grounds supporting the objection.~~

~~(e) A statement supporting the instructional materials or curriculum framework as a whole or any portion thereof. The statement shall include the reasons for supporting the recommended adoption or for supporting specified portions thereof.~~

~~Written statements, typewritten (or in clearly legible manuscript), shall be mailed postpaid, to the Executive Secretary of the Curriculum Development and Supplemental Materials Commission, 721 Capitol Mall, Sacramento, California, 95814, postmarked not later than ten (10) days prior to the date set for the Curriculum Commission's public~~

~~hearing on the instructional materials or curriculum framework.~~

~~NOTE: Authority cited: Sections 33031 and 60004, Education Code. Reference: Section 60202, Education Code.~~

~~§9521. Public Hearings Held by the Curriculum Commission and the Board Regarding Instructional Materials and Curriculum Frameworks~~ ~~Public Written Comments Regarding Content of Instructional Materials.~~

~~Prior to recommending a curriculum framework or any instructional materials to the Board for adoption, the Curriculum Commission shall hold at least one public hearing on the curriculum framework and at least one public hearing on any instructional materials submitted fro Board adoption.~~

~~Prior to adopting a curriculum framework, the Board shall hold a public hearing on the curriculum framework. Pursuant to Education Code section 602023, the Board shall hold a public hearing on any instructional materials submitted for adoption.~~

~~(a) Oral and written public comment, whenever submitted, addressing the content of instructional materials should specifically identify the instructional material and page number where the subject content appears and, if pertinent, provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards and, if pertinent, suggest a correction to the identified problem. Any person, including the CDE or its agent, may submit a typewritten (or clearly legible handwritten) comment regarding the content of instructional materials to the Executive Director of the Curriculum Development and Supplemental Materials Commission, 1430 N Street, Suite 3207, Sacramento, California, 95814, postmarked not later than 14 days prior to the date set for review panel deliberations in the Schedule of Significant Events. Notice of this deadline shall be posted at all LRDCs and on the CDE website.~~

~~(b) Any written comment from a member of the public regarding the content of instructional materials that is received by the Executive Director of the Curriculum Commission not less than 14 days prior to the first date set for review panel deliberations in the Schedule of Significant Events, will be distributed to the review~~

~~panel that is reviewing the instructional material that is the subject of the comment not less than 7 days before the date of deliberations. Notice of these deadlines, and the Executive Director's mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs on the date when instructional materials being submitted for adoption are to be delivered to the LRDCs the subject of the received after the above deadline will be accepted, but may not be evaluated by the IMRs and CREs.~~

~~(c) Written comments challenging the content of instructional materials shall specifically identify the instructional material and page number where the subject content appears and provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards.~~

~~(d) No later than the first day of deliberations, CDE staff will distribute written comments that were received by the above deadline to the review panel that is reviewing the instructional material that is the subject of the written comment.~~

~~(e) IMRs and CREs on the review panel shall evaluate the written comments that were received by the above deadline during deliberations.~~

~~(f) All written comment received in accordance with this section shall be forwarded with the Report of Findings to the Curriculum Commission and to the SBE.~~

~~(c)(g) Nothing in this section shall restrict a member of the public from directly addressing a state body, orally or in writing, at any public meeting relating to the adoption of instructional materials.~~

~~NOTE: Authority cited: Sections 33013, 60005 and 60004~~60206~~, Education Code. Reference: Sections 6020~~60203 and 6020~~260204, Education Code; Section 11125.7, Government Code.~~

~~§9522. Speakers~~ ~~Presentation of Public Testimony~~

~~Persons wishing to address the Curriculum Commission on a subject to be considered at a further meeting, including any matter designated as a public hearing, shall present a written request to the Executive Secretary of the Curriculum Development and Supplemental Materials Commission, 721 Capitol Mall, Sacramento, California, 95814, by noon of the third working day before the scheduled meeting, stating the subject they~~

wish to address, the organization they represent, if any, and the nature of their testimony.

At or before any public hearing related to the evaluation or adoption of a curriculum framework, evaluation criteria, or instructional materials, at which oral comments from the public are to be received, the chairperson or presiding member of the hearing body shall 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.

NOTE: Authority cited: Sections 33031, 60005 and 6000460206, Education Code. Reference: Sections 33530, 33534 and 33535 60200, Education Code; Section 11125.7, Government Code.

§ 9523. Presentation of Public Testimony Display of Instructional Materials for Public Inspection.

At or before the hearing at which oral comments from the public are to be received, the Curriculum Commission chairperson or the chairperson of a hearing body other than the full Curriculum Commission shall determine the total amount of time that will be devoted to hearing such oral comments, and may determine the time to be allotted to each person or to each side of an issue.

(a) On or before the delivery date designated in the Schedule of Significant Events, publishers shall send instructional materials that are being submitted for adoption to LRDCs at the addresses indicated in the Invitation to Submit. Instructional materials that are submitted for adoption shall be displayed at the LRDCs at least until the date the SBE adopts instructional materials.

(b) LRDCs shall ensure that instructional materials received are on display within three weeks after the date of receipt unless circumstances beyond the control of the LRDC prevent such display, in which case the instructional materials will be displayed within a reasonable amount of time.

(c) Instructional materials adopted by the SBE shall be available at LRDCs for a minimum of two years after the date of adoption.

NOTE: Authority cited: Sections 33031 and 6000560004, Education Code. Reference:

~~Section 6020233536, Education Code.~~

~~§ 9524. Waiver by Chairperson~~ ~~Public Hearings Held by the Curriculum Commission and the State Board of Education Regarding Instructional Materials.~~

~~At any time, upon a showing of good cause, the Curriculum Commission chairperson or the chairperson of a hearing body other than the full Curriculum Commission may waive the requirements of Sections 9522 and 9523.~~

~~(a) Prior to recommending instructional materials to the SBE for adoption, the Curriculum Commission shall do the following:~~

~~(1) Not more than 30 days after the issuance of the IMR/CRE Report of Findings, the Curriculum Commission shall hold a public hearing during which any interested party may provide the Curriculum Commission with written or oral comments regarding the submitted instructional materials and/or the recommendations contained in the IMR/CRE Report of Findings. The primary purpose of this hearing is to afford the Curriculum Commission an opportunity to receive comment from those who disagree with any part of the IMR/CRE Report of Findings.~~

~~(2) Curriculum Commissioners must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria, and social content standards~~

~~(3) Not less more than 30 days after the Curriculum Commission meeting discussed in subdivision (a)(1) above, the Curriculum Commission will hold a second public meeting at which time it will adopt its recommendations to the SBE regarding instructional materials, and edits and corrections.~~

~~(4) The Curriculum Commission's recommendations shall be compiled into a document titled may add to the "Curriculum Commission Advisory Report of Findings" and may to include recommendations different than those of the review panels as contained in the IMR/CRE Report of Findings, but shall in no way delete or alter the recommendations of the review panels. The Curriculum Commission shall not recommend rewrites of instructional materials. The Curriculum Commission Advisory Report of Findings, as approved by the Curriculum Commission shall be presented to the SBE along with the~~

IMR/CRE Report of Findings.

(b) Following the Curriculum Commission meetings described above, the SBE will hold at least one public meeting before to adopting both instructional materials and edits and corrections and issuing its Adoption Report.

NOTE: Authority cited: Sections 33031, 60005 and 60004 60206, Education Code. Reference: Section 3353660200, 60203 and 60204, Education Code.

§ 9525. Post Adoption Edits and Corrections Procedures.

(a) Following the action of the SBE on a specific instructional materials adoption, CDE staff will notify publishers, in writing, of any edits and corrections adopted by the SBE.

(b) Within 60 days of the SBE adopting instructional materials and edits and corrections, publishers shall provide to the CDE copies of final printed instructional materials that reflect all modifications required by the SBE. If the publisher can show that circumstances beyond its control prevented it from delivering final printed instructional materials within the 60 day period, the CDE may grant a reasonable extension to the publisher.

(c)(b) CDE staff will schedule individual meetings with each publisher to discuss edits and corrections, at which time publishers will provide evidence showing that the adopted edits and corrections have been made to the adopted instructional materials.

(d)(c) Under direction from the SBE, CDE staff may work with Curriculum Commissioners, CREs, or any additional content experts as needed to evaluate whether publishers have made the adopted edits and corrections to their instructional materials.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200, Education Code.

Article 2.1. Adoption of Curriculum Frameworks and Instructional Materials – Procedures Acquisition of Adopted Instructional Materials

Article 2.2. Acquisition of Adopted Instructional Materials

§9527. Free or Gratis Items Instructional Materials.

~~If free instructional materials are offered to school districts, publishers and manufacturers shall comply with the following requirements in addition to those stated in Education Code section 60061:~~

~~(b) Publishers and manufacturers shall inform the Department in writing of all offers of free instructional materials within thirty (30) working days of the effective date of the offer so that all school districts may have the opportunity to order these materials. Failure or refusal by the publisher or manufacturer to inform the Department within this deadline shall constitute a rebuttable presumption that the violation of Education Code section 60061 was willful.~~

~~(a) Only adopted instructional materials may be offered by a publisher as free or gratis items to a governing board district board, elementary school, middle school or high school. In order to comply with the statutory requirement that publishers provide any instructional materials free of charge in this state to the same extent as that received by any state or school district in the United States, publishers shall post on their website a list of any free instructional materials that they have agreed to provide to a county office of education, district board, elementary school, middle school or high school within 10 days of entering into such an agreement. Publishers shall maintain this list on their websites through the next biennial price adjustment referenced in Education Code section 60223, at which time the statutory requirement regarding the instructional materials on the list shall end.~~

~~(b) Publishers shall inform the CDE in writing of the terms and duration of an proposed offer of free or gratis items at least 30 working days prior to the effective date of the offer.~~

~~(c) As a condition of adoption, any publisher choosing to provide free or gratis items shall provide CDE with the URL for a publisher-maintained website. This website shall be a direct link to the free or gratis items instructional materials being offered so that they are easily discerned. The website will identify free or gratis items with the ISBN or identifier that appears on the list of adopted materials.~~

~~(b) The publisher shall provide the CDE with the URL to their list of free instructional materials, and the CDE shall post on its website a direct hyper link to the URL provided~~

~~by the publisher.~~

~~NOTE: Authority cited: Sections 33031, 60005 and 6000460206, Education Code.~~

~~Reference: Section 60061, Education Code.~~

~~§9528. Alternate Formats of Adopted Instructional Materials.~~

~~Alternate formats are (1) Instructional materials which are identical in content to adopted instructional materials but different in physical format, or (2) translations or literature that is equivalent in content to adopted instructional materials. Publishers and manufacturers may submit alternate formats of adopted instructional materials to the Department for approval at any time during the period of adoption.~~

~~Submissions for approval shall include a sample of the proposed alternate format material.~~

~~An alternate format package may include free instructional materials that have not been adopted by the Board, provided that:~~

~~(a) the non-adopted free materials have passed a state review for legal compliance with the social content requirements as required by Section 9527 and in accordance with Section 9518.~~

~~(b) the purchase price of the alternate format package shall not include any costs attributable to the non-adopted free instructional materials such as, but not limited to, development and production, correlation to the adopted materials, packaging and shipping costs.~~

~~(c) the publisher or manufacturer includes with the submission a certification of compliance with the proviso in subdivision (b) of this section, and~~

~~(d) the publisher includes in the alternate format package a statement that identifies any items that are free and which have not been adopted by the Board.~~

~~(a) Publishers may submit alternate formats of adopted instructional materials to the CDE for approval at any time during the period of adoption.~~

~~(b) Alternate formats of adopted instructional materials shall include:~~

~~(1) instructional materials that are identical in content to adopted instructional materials, but that are different in physical format, and~~

~~(2) translations of adopted instructional materials into other languages. Translations of adopted instructional materials into other languages may include different literary selections that are equivalent in content to those contained in the English version.~~

~~(c) Submissions of alternate formats shall be reviewed as follows:~~

~~(1) For approval of an alternate physical format, the CDE staff will review submitted materials to confirm that the content is identical to the adopted instructional materials.~~

~~(2) For approval of alternate formats in languages other than English, the CDE will employ qualified CDE staff or contract with experts in the alternate language to review the materials to confirm that the translation is accurate and to determine if the materials are equivalent in content to the adopted instructional materials.~~

~~(d) The price of the alternate format shall be equal to or lower than the adopted instructional material.~~

~~NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60222, Education Code.~~

~~§ 9529. New Editions of Adopted Instructional Materials.~~

~~Upon written request by a publisher or manufacturer, the Department may approve a new edition of an instructional material to replace the original edition adopted by the Board, provided that:~~

~~(a) Changes contained in the new edition are so minimal that both the new edition and the old edition may be used together in a classroom environment. (Technical upgrades of computer software which do not contain educational or social content changes shall be exempt from this requirement.)~~

~~(b) All changes comply with the social content requirements of Education Code sections 60040-60044 and the Board's Standards for Evaluation of Instructional Materials with Respect to Social Content.~~

~~The price of the original edition or a lower price shall apply until the next scheduled biennial price adjustment for that subject area.~~

~~(a) Upon written request by a publisher, the CDE may approve a new edition of an adopted instructional material to replace the original adopted edition, provided that:~~

~~(1) Changes contained in the new edition are so minimal that both the new edition and the original adopted edition may be used together in a classroom environment. No additional content may be included in the new edition~~

~~(2) All changes comply with the social content standards set forth in the publication entitled Standards for Evaluating Instructional Materials for Social Content, 2000, as referenced in section 9518 above. The price of the new edition is equal to or lower than the price of the original adopted edition.~~

~~(b) Upgrades of technology-based materials that do not contain content changes can be made by publishers without CDE approval, unless the upgrade results in a new ISBN or identifier.~~

~~NOTE: Authority cited: Sections 33031, 60005 and 6000460206, Education Code. Reference: Sections 60040-60044, 60061, 60222 and 60223, Education Code.~~

~~§9530. School District Ordering of Instructional Materials.~~

~~Each school district shall purchase adopted instructional materials directly from publishers and manufacturers. With respect to the purchase of instructional materials by a school district, the publisher or manufacturer shall comply with the following requirements:~~

~~(a) The provisions of Education Code section 60061 and 60061.5.~~

~~(b) Instructional materials furnished and delivered to the school district by the publisher or manufacturer shall conform to and be of the same quality of workmanship as the samples of the respective instructional materials submitted by the publisher or manufacturer to the Department, except that the instructional materials shall also include all revisions, corrections, additions, and substitutions required by the Board at the price adjusted by the Board and the publisher or manufacturer.~~

~~(c) Upon request by any school district, a publisher or manufacturer shall provide a copy of any manufacturing standards and specifications for textbooks with which the publisher or manufacturer is currently in compliance.~~

~~(d) A discontinuation of an instructional material before its adoption expiration date or before eight years, whichever is less, may cause a hardship on the school districts by~~

~~limiting the reorder availability of components necessary for the use of instructional materials sets or programs. Should the publisher or manufacturer discontinue to supply an instructional material before its adoption expiration date or before eight years, whichever is less, without prior written approval from the district, upon receipt of written notice from the district, the publisher or manufacturer shall buy back, from all school districts having received the program, set, or system within the adoption period of the program, set, or system, all components of the instructional materials program, set, or system in which the discontinued item was designed to be used. The publisher shall buy back the instructional materials program, set, or system at the price in effect pursuant to the purchase order or agreement at the time the particular material from the program, set, or system is discontinued.~~

~~(e) The failure of the publisher or manufacturer to perform under the term of any purchase order or agreement by late or nondelivery of instructional materials, or the discontinuation to supply materials without prior approval by the Board and the delivery of unauthorized materials will disrupt and delay the intent of the school district's educational process, causing loss and damage to the school, its students, and the public interest. It is difficult to assess and fix the actual damages incurred due to the failure of the publisher or manufacturer to perform. Therefore, the publisher or manufacturer shall comply with any of the following requirements made by the school districts pursuant to this section as compensating or liquidating damages and not as penalties:~~

~~(1) For purposes of this subdivision, unauthorized instructional materials are those that do not appear in exact description and terms in the purchase order or agreement or are materials that have not been approved for delivery to California schools in written notice to the publisher or manufacturer from the Board or Department.~~

~~Should the publisher or manufacturer deliver unauthorized instructional materials to the school district, on written notice from the district, the publisher or manufacturer shall comply with the following requirements:~~

~~(A) Withdraw the delivered unauthorized instructional materials from the school district.~~

~~(B) Replace the unauthorized instructional materials with authorized materials that are~~

~~comparable in subject matter, quality, quantity, and price in the California schools.~~

~~(C) Incur all costs of transportation or any other costs involved to complete the transactions of withdrawing and replacing unauthorized materials.~~

~~(D) Complete the transactions of withdrawing unauthorized instructional materials and replacing them in the school district with comparable authorized materials within 60 calendar days of the receipt of written notice from the district.~~

~~(2) Should the publisher or manufacturer fail to deliver instructional materials within 60 days of the receipt of a purchase order from the school district and the publisher or manufacturer had not received prior written approval from the district for such a delay in delivery, which approval shall not be unreasonably withheld, the school district may assess as damages an amount up to five hundred dollars ($500) for each working day the order is delayed beyond sixty (60) calendar days. If late delivery results from circumstances beyond the control of the publisher or manufacturer, the publisher or manufacturer shall not be held liable. Pursuant to this section, the maximum dollar amount that shall be assessed to the publisher or manufacturer by the school district from any individual purchase order shall be twenty thousand dollars ($20,000.00). Should the district take such action, the district shall give the publisher or manufacturer written notification of the delivery delay and the date commencing the accrual of dollar amounts to be assessed to the publisher or manufacturer.~~

~~Each school district shall purchase adopted instructional materials directly from publishers. With respect to the purchase of adopted instructional materials by a school district, the publisher shall comply with the following requirements:~~

~~(a) Instructional materials furnished and delivered to the school district by the publisher shall conform to and be of the same quality of workmanship as the instructional materials submitted for adoption.~~

~~(b) Upon request by any school district, a publisher shall provide a copy of any manufacturing standards and specifications for instructional materials with which the publisher is currently in compliance.~~

~~(c) Should the publisher discontinue an instructional material before its adoption expiration date or before eight years, whichever is less, upon receipt of a written~~

~~request from a district that has purchased the discontinued instructional materials, the publisher shall buy back from the school district all of the instructional materials discontinued and any instructional materials designed to be used with the discontinued instructional material. The publisher shall buy back the instructional materials at the price in effect pursuant to the purchase order or agreement at the time when the instructional materials were purchased.~~

~~(d) Should the publisher fail to deliver adopted instructional materials within 60 days of the receipt of a purchase order from the school district, and the publisher has not received prior written approval from the district for such a delay in delivery, which approval shall not be unreasonably withheld, the school district may assess as damages an amount up to $500 for each working day the order is delayed beyond 60 calendar days. If late delivery results from circumstances beyond the control of the publisher, the publisher shall not be held liable. Pursuant to this section, the maximum dollar amount that shall be assessed to the publisher by the school district from any individual purchase order shall be $20,000.00. Should the district take such action, the district shall give the publisher written notification of the delivery delay and the date commencing the accrual of dollar amounts to be assessed to the publisher.~~

~~NOTE: Authority cited: Sections 33031, 60005 and 6000460206, Education Code. Reference: Sections 60061 and 60061.5, Education Code.~~

~~05-30-07 [California Department of Education]~~**Title 5. EDUCATION**

Division 1. California Department of Education

Chapter 9. Instructional Materials

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Article 2. ~~Standards and Criteria for Adoption of Instructional Materials~~

Adoption of Curriculum Frameworks, Evaluation Criteria and Instructional Materials – Procedures

§ 9510. Definitions ~~Standards and Criteria for Specific Subject Matter~~

~~Adoptions~~.

For purposes of curriculum frameworks, evaluation criteria and instructional materials adoptions, the following definitions shall apply:

(a) "Adoption Report" is the final report reflecting the State Board of Education's (SBE) action on instructional materials submitted for adoption.

(b) "CDE" is the California Department of Education.

(c) "Content Standards" are those adopted by the SBE, pursuant to Education Code section 60605, et seq**.**

(d) "Curriculum Commission" is the Curriculum Development and Supplemental Materials Commission as referenced in Education Code section 33530.

(e)~~(n)~~ "**Curriculum Commission Advisory** Report**~~ of Findings~~**" is produced by **the Curriculum Commission ~~IMRs and CREs~~** to indicate whether **each set of** instructional materials submitted for adoption meet**s** the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The **Curriculum Commission Advisory ~~r~~R**eport **~~of findings~~** shall include, at a minimum:

(1) a recommendation for or against the adoption of **each set of** instructional materials, and

(2) if applicable, a list of edits and corrections that should be made to the instructional materials as a condition of adoption.

(f)~~(e)~~ "Curriculum Commissioner" is **an individual ~~one of the persons~~** appointed to the Curriculum Commission, pursuant to Education Code section 33530.

(g)~~(f)~~ "Deliberations" means the time set forth in the Schedule of Significant Events when Content Review Experts (CREs) and Instructional Materials Reviewers (IMRs) **assemble into review panels and** meet in open public meetings to discuss **and make recommendations regarding** the instructional materials submitted for adoption **~~and to develop a report of findings~~**.

(h)~~(k)~~ "Edits and corrections" are changes that must be made to submitted instructional materials to meet the social content standards, to ensure accuracy, or to achieve clarity and that are minimal in number, and include, but are not limited to:

(1) Misquoted content standards;

(2) Imprecise definitions;

(3) Mislabeled pictures or objects;

(4) Grammatical errors or misspellings;

(5) Simple factual errors;

(6) Computational errors.

(i)~~(g)~~ "Evaluation criteria" are adopted by the SBE for the evaluation of submitted instructional materials, pursuant to Education Code section 60005(c)(2).

(j) "Executive Committee" is a subcommittee of the Curriculum Commission that is comprised of the chairperson and vice chairperson of the Curriculum Commission and 3 other Curriculum Commissioners chosen by the Curriculum Commission, with the primary purpose of advising the Curriculum Commission on issues related to internal governance of the Curriculum Commission and its subcommittees and advisory groups.

(k) "Facilitator" is a Curriculum Commissioner, former Curriculum Commissioner, IMR or CDE employee assigned by the Curriculum Commission to help each IMR/CRE review panel organize and reach consensus during deliberations. The SBE must approve the participation of any facilitator who is not a current Curriculum Commissioner.

(l)~~(h)~~ "Free **instructional materials ~~or gratis items~~**" refer to **~~adopted~~** instructional materials provided at no cost by a publisher to a **county office of education,** district board, elementary school**, middle school** or high school.

(m) "IMR/CRE Report of Findings" is compiled by CDE and contains the determinations of all the IMR and CRE review panels as to whether the instructional materials reviewed by each panel meet the content standards, curriculum frameworks, evaluation criteria, and social content standards for a particular adoption. The report shall include, at a minimum:

(1) a recommendation for or against the adoption of each set of instructional materials, and

(2) if applicable, a list of edits and corrections that should be made to the

instructional materials as a condition of adoption.

(n)~~(i)~~ "Invitation to Submit Instructional Materials" (Invitation to Submit) is the document prepared by the CDE for each instructional materials adoption that**:**

(1) identifies the applicable content standards, curriculum framework and evaluation criteria for the adoption;

(2) sets out the statutes, regulations, specifications and timelines that govern the adoption process~~,~~**;** and

(3) invites publishers to participate in the process.

(o)~~(j)~~ "Learning Resources Display Center" (LRDC) is where instructional materials**,** ~~**and**~~ curriculum frameworks **and evaluation criteria** that are submitted for adoption shall be available for public viewing, pursuant to Education Code section 60202.

(p)~~(l)~~ "Period of adoption" is the length of time established by the SBE, as set forth in the Schedule of Significant Events, that instructional materials adopted by the SBE shall be available for procurement, pursuant to Education Code section 60200(i)

(q)~~(m)~~ "Publisher" is any company, person, or entity that submits instructional materials for adoption.

(r)~~(o)~~ "Rewrites" are extensive changes that would need to be made to instructional materials in order for them to meet the content standards, curriculum frameworks, evaluation criteria or social content standards and include, but are not limited to:

(1) Revising a paragraph, page, section or chapter;

(2) Adding new content;

(3) Moving materials from one grade level to another.

(s)~~(p)~~ "Schedule of Significant Events" is a timeline adopted by the SBE for each instructional materials adoption that sets out the dates for key events that will take place during the adoption. The Schedule of Significant Events is included in the Invitation to Submit document and is posted on the CDE website.

(t)~~(q)~~ "Social content standards" are those set forth in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition.

(u) "Standards maps" are templates prepared by the CDE for each adoption that must be completed by publishers submitting instructional materials for

adoption and are designed to determine if instructional materials meet the content standards. The standards maps are available on the CDE website.

(v) "Subject Matter Committees" are subcommittees of the Curriculum Commission composed of Curriculum Commissioners, whose members are selected by the Curriculum Commission, each with the primary purpose of assisting the Curriculum Commission in making recommendations on matters related to a particular subject matter area and shall exist for the following subject matter areas:

(1) Foreign Language

(2) History-Social Science

(3) Mathematics

(4) Physical Education

(5) Reading/Language Arts

(6) Science

(7) Visual/Performing Arts

(8) Health

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: ~~Chapters 1 and 2 of Part 33 of Title 2,~~ Sections 33530, 60010, 60048, 60061, 60200, 60202, 60204 and 60605, Education Code.

§ 9510.5. Internal Governance of the Curriculum Commission.

The Curriculum Commission, through its own bylaws, approved by the SBE, shall provide for its internal governance, including, but not limited to, the election of its officers and the establishment of its subcommittees and advisory groups.

NOTE: Authority cited: Sections 33031, 60005, 60204 and 60206, Education Code. Reference: Section 33003 and 60206, Education Code.

§ 9511. ~~Standards and Criteria for All Subject Matter Adoptions~~ Curriculum Framework and Evaluation Criteria Committee Establishment, Composition and

Membership Qualifications.

~~The standards and criteria in the publication entitled *Standards for Evaluating the Social Content of Instructional Materials*, 2000 Edition, approved by the State Board of Education on January 13, 2000, and published by the California State Department of Education in 2000 are incorporated in this section by reference and apply to all State Board of Education adoptions of instructional materials in all subjects.~~

(a) At the SBE's request, the Curriculum Commission shall recommend a curriculum framework and evaluation criteria to the SBE.

(b)~~(a)~~ The SBE may establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the process of **~~reviewing and/or~~** developing a curriculum framework and evaluation criteria **for a particular content field** and **to** mak**~~ing~~** a recommendation to the **Subject Matter Committee,** Curriculum Commission and SBE **regarding a curriculum framework and evaluation criteria**.

(c) When the SBE requests that the Curriculum Commission recommend a curriculum framework and evaluation criteria, the CDE shall convene four public focus groups of educators in different regions of California to provide comment to the Curriculum Commission, the CFCC (if established), and the SBE.

(d)~~(b)~~ The CFCC shall be composed of a minimum of 9 to a maximum of 20 members appointed by the SBE.

(e)~~(c)~~ The Curriculum Commission shall make recommendations to the SBE on appointing CFCC members according to the qualifications stated below. **The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the public according to the qualifications stated below.**

(f) A majority of CFCC members, at the time of appointment, shall be classroom teachers or mentor teachers currently assigned to teach kindergarten or grades 1-12. At least one classroom or mentor teacher shall have experience in providing instruction to English Learners, and at least one classroom or mentor teacher shall have experience in providing instruction to students with disabilities.

(g)~~(d)~~ CFCC members **who are classroom or mentor teachers** shall have

~~**subject matter expertise and professional knowledge of, and successful**~~ experience with**, and expertise in, standards-based ~~effective~~** educational programs and practices **in the content field under consideration**.

(h)~~(e)~~ Other CFCC members may be administrators, parents, local school board members, and members of the public. ~~A majority of CFCC members, at the time of appointment, shall be classroom teachers, or mentor teachers, currently assigned to teach kindergarten or grades 1-12~~.

(i)~~(f)~~ The SBE shall strive to appoint CFCC members who are reflective of the various ethnic groups, types of school districts, and regions in California. ~~**Nothing in this section shall preclude public members, i.e., non-educators, from serving as a CFCC member as the SBE may deem appropriate**~~

(j) CFCC members shall receive training during public meetings from CDE staff and Curriculum Commissioners.

(k) CFCC members shall serve until they make their recommendations to the Curriculum Commission and SBE.

(l)~~(g)~~ All CFCC members operate under the guidance and at the pleasure of the SBE.

NOTE: Authority cited: Sections 33031, 60005, ~~60048(d),~~ 60200~~(o)~~ and 60206, Education Code. Reference: Sections ~~60040-60044, 60048, 60200 and 60200.2,~~ 33530~~,~~ and 60204, Education Code.

§9512. Appointment of Instructional Materials Reviewers and Content Review Experts.

(a) The SBE shall appoint Instructional Material Reviewers (IMRs)~~,~~ and Content Review Experts (CREs) to serve as advisors to the Curriculum Commission and SBE, in the review of instructional materials submitted for adoption.

(b) The Curriculum Commission shall make recommendations to the SBE on appointing IMRs and CREs according to the qualifications stated below. **The SBE may also consider recommendations from CDE, SBE staff, members of the SBE and the public according to the qualifications stated below.**

~~(c) The primary qualification for IMRs shall be subject matter expertise and professional knowledge of, and successful experience with, effective educational programs and practices~~.

(c)~~(d)~~ A majority of IMRs, at the time of appointment, shall be classroom teachers~~,~~ or mentor teachers~~,~~ currently assigned to teach kindergarten or grades 1-**12** ~~8~~ **who have experience with, and expertise in, standards-based educational programs and practices in the content field under consideration**. **At least one classroom or mentor teacher shall have experience in providing instruction to English Learners, and at least one classroom or mentor teacher shall have experience in providing instruction to students with disabilities.**

(d)~~(e)~~ **Other IMRs may be administrators, parents, local school board members, and members of the public**. ~~Nothing in this section shall preclude public members, i.e., non-educators, from serving as IMRs as the SBE may deem appropriate~~

(e)~~(f)~~ **When the instructional materials considered for adoption are in a content field other than reading/language arts and visual/performing arts, the** CREs shall ~~be experts in a content field who: (1)~~ hold a doctoral degree in that field~~,~~ or **related field.**

~~(2) have a masters degree or higher in that field and 5 or more years of curriculum expertise in that field~~.

(f) When the instructional materials considered for adoption are in the content field of reading/language arts or visual/performing arts, the CREs shall have a masters degree or higher in that field and 5 or more years of experience with, and expertise in, standards-based educational programs and practices in that field.

(g) The SBE shall strive to appoint IMRs and CREs who are reflective of the various ethnic groups, types of school districts, and regions in California.

(h) IMRs and CREs shall receive training during public meetings from CDE staff and Curriculum Commissioners.

(i) IMRs and CREs shall serve until the SBE acts to adopt or not adopt the

submitted instructional materials.

(j)~~(g)~~ All IMRs and CREs operate under the guidance and at the pleasure of the SBE.

NOTE: Authority cited: Sections 33031, 60005, 60200**~~,~~ and** 60206, Education Code. Reference: Sections 33530 and 60204, Education Code.

§9513. Application Process for Curriculum Framework and Evaluation Criteria Committee Members, Instructional Materials Reviewers and Content Review Experts.

(a) At least 90 days **~~prior to~~ before the scheduled date of** appointment by the SBE, the CDE shall distribute **application forms, approved as to form by the SBE, to become a** CFCC member, **an** IMR, **~~and~~ or a** CRE **~~applications~~** to districts, county offices, Learning Resources Display Centers (LRDCs) and others upon request, as well as post**~~ing~~** the application**~~s~~ forms** on the CDE website, to ensure sufficient time for **interested parties to ~~applications to be~~** complete**~~d~~** and submit**~~ted~~ applications** to **the Curriculum Commission ~~CDE by interested parties~~**.

(b) The CDE shall assist **the Subject Matter Committee and** the Curriculum Commission in reviewing **the submitted** applications **~~of CFCC members, IMRs, and CREs~~** to ensure applications are complete **~~before the Curriculum Commission makes its recommendations to the SBE~~**.

(c) All completed applications, with the exception of personal information, shall be available for viewing at the CDE and SBE during normal business hours and at every public meeting at which the applications are considered.

~~(c) The SBE shall consider the recommendations of the Curriculum Commission, and appoint CFCC members, IMRs and CREs that in its view meet the qualifications set forth above.~~

NOTE: Authority Cited: Sections 33031, 60005, 60200 and 60206, Education Code. Reference: Sections 33530 and 60204, Education Code.

§9514. Prohibited Communications.

~~(a) CFCC members during their tenure shall not release draft copies of the curriculum framework or evaluation criteria.~~

(a)~~(b)~~ Publishers~~,~~ or their representatives~~,~~ shall not communicate with IMRs and CREs, during their tenure, **and IMRs and CREs, during their tenure, shall not communicate with publishers or their representatives,** about anything related to the evaluation or adoption of instructional materials **submitted for adoption**, other than **when publishers are making presentations or ~~during the times for~~** public comment in open public meetings. **When publishers or their representatives, or IMRs or CREs, make a prohibited communication, ~~Such communication outside of the times designated in the Schedule of Significant Events may result in~~** the **SBE may take corrective action, including** disqualification of the publisher and IMR/CRE **~~by the SBE~~** from further participation in the **~~subject~~** adoption.

~~(c) Publishers, or their representatives, shall not communicate with Curriculum Commissioners about anything related to the evaluation or adoption of instructional materials, other than during the times for public comment in open public meetings, between the date set forth in the Schedule of Significant Events when instructional materials are delivered to IMRs, CREs and LRDCs and the date when the SBE takes action to adopt. Such contact may result in the disqualification of the publisher and the Curriculum Commissioner by the SBE from further participation in the subject adoption.~~

(b)~~(d)~~ Notwithstanding the above prohibitions, IMRs~~,~~ **and** CREs~~, and Curriculum Commissioners~~ may contact publishers for technical assistance in using electronic instructional materials.

NOTE: Authority Cited: Sections 33031 and 60206, Education Code. Reference: Sections 33530, 60200 and 60204, Education Code.

§ 9515. ~~Definitions~~ Public Inspection of, and Comment on, ~~Display of~~ Curriculum Frameworks and Evaluation Criteria ~~for Public Inspection and Comment~~.

~~(a) "Board means the State Board of Education.~~

~~(b) "Curriculum Commission" means the Curriculum Development and~~

~~Supplemental Materials Commission.~~

~~(c) "Department" means the California Department of Education.~~

~~(d) "Schedule of Significant Events" means the dates promulgated by the Department in the "Invitation to Submit Basic Instructional Materials for Adoption in California."~~

~~(e) "Period of Adoption" means the period of time that the instructional materials shall remain in adoption. This time period shall be specified in the "Schedule of Significant Events."~~

~~(f) "Primary Adoption" means the first instructional materials adoption following the approval of new evaluation criteria by the Board.~~

(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission shall**:**

(1) direct the appropriate Subject Matter Committee to consider the draft curriculum framework and evaluation criteria developed by the CFCC, if applicable, and submit its recommendation to the Curriculum Commission;

(2) consider the recommendation from the Subject Matter Committee;

(3) approve a draft curriculum framework and evaluation criteria**;**

(4) make the draft curriculum framework and evaluation criteria available for public review and comment for a minimum **of 60 ~~45~~** day**s ~~public review and comment period~~.** The CDE shall ensure that the draft curriculum framework and evaluation criteria **is ~~are~~** posted on the CDE website **for the entire period,** and available at the LRDCs during this **~~45 day~~** period**; and**

(5) hold at least one public meeting to receive comment as referenced below.

~~(b) After the Curriculum Commission recommends a curriculum framework and evaluation criteria to the SBE for adoption, the CDE shall ensure that the recommended curriculum framework and evaluation criteria are available on the CDE website and available at the LRDCs during a minimum 30 day period prior to SBE consideration for adoption.~~

(b)~~(c)~~ Any **comment from a member of the public ~~person may submit a typewritten (or clearly legible handwritten) statement~~** regarding **~~the content of~~** a

draft curriculum framework and evaluation criteria **that is received by ~~to~~** the Executive Director of the Curriculum **~~Development and Supplemental Materials~~** Commission, **~~1430 N Street, Suite 3207, Sacramento, California, 95814, postmarked~~** not later than **14 ~~10~~** days prior to the date set for the public **meeting ~~hearing~~** at which the Curriculum Commission is scheduled to **consider ~~vote on~~** whether **to recommend** the draft curriculum framework and evaluation criteria **~~should be recommended~~** to the SBE for adoption**, will be distributed to members of the Curriculum Commission not later than 3 days before the meeting. Notice of the 14-day deadline, and the Executive Director's mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs at least 60 days before the meeting.**

(c) After the Curriculum Commission recommends a curriculum framework and evaluation criteria to the SBE for adoption, the CDE shall ensure that the recommended curriculum framework and evaluation criteria is posted on the CDE website for a 60-day period, and available at the LRDCs during this period, for public review and comment prior to consideration by SBE for adoption.

(d) Nothing in this section shall restrict a member of the public from directly addressing a state body at any public meeting**, orally or in writing,** relating to a curriculum framework and evaluation criteria.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections ~~60200, 60201,~~ 60202~~,~~ and 60204~~, 60206, 60221, 60222 and 60227~~, Education Code; Section 11125.7, Government Code.

§9516. ~~Advisory Task Forces and Committees to the Curriculum Commission~~ Public Hearings Held by the Curriculum Commission and the SBE Regarding Curriculum Frameworks and Evaluation Criteria.

~~The Board may, upon recommendation by the Curriculum Commission, appoint task forces or committees of subject matter experts to assist and advise the Curriculum Commission. Each task force or committee shall include, at the time of appointment, a majority of current classroom teachers providing instruction in kindergarten and grades one to either, inclusive, or mentor teachers, or certificated teachers employed by school districts of county offices of education who are not in a position that requires a services~~

~~credential with a specialization in administrative services, or any combination of those teachers. The primary criteria for membership shall be subject matter expertise and professional knowledge of, and successful experience with, effective educational programs and practices for the full range of the state's diverse population. The Board shall, to the extent possible, appoint persons who are representative of the various ethnic groups and types of school districts in the state. Nothing in this section shall preclude public members, i.e., noneducators, from serving on a task force or committee as the Board may deem appropriate.~~

~~For purpose of developing a curriculum framework or for other activities not associated with the evaluation of basis instructional materials, the Board may expand the committees or task forces to include teachers who provide instruction in kindergarten and grades one to twelve, inclusive.~~

(a) Prior to recommending a curriculum framework and evaluation criteria to the SBE for adoption, the Curriculum Commission shall hold at least one public hearing**. To recommend a curriculum framework and evaluation criteria to the SBE, the Curriculum Commission must ~~and~~** conduct a roll call vote with at least 9 **affirmative** votes **for the recommendation ~~required to recommend a curriculum framework and evaluation criteria to the SBE~~**.

(b) Prior to adopting a curriculum framework and evaluation criteria, the SBE shall receive the recommendation of the Curriculum Commission and hold at least one public hearing.

NOTE: Authority cited: Sections 33031**, ~~and 60004~~** 60005 and 60206, Education Code. Reference: Sections ~~33530~~ 60200 and 60204, Education Code.

§9517. ~~Invitation to Submit Basic Instructional Materials for Adoption.~~
Procedures for Submitting Instructional Materials for Adoption.

~~The Board shall ensure that a written notice of an upcoming primary and follow-up adoption of instructional materials is posted on the Department Website and mailed to every person or firm who has submitted a request for notice to the Department and to any person or firm whom the Department, in its judgment, deems to be interested in the~~

~~notice. This notice shall be known as the Invitation to Submit Basic Instructional Materials for Adoption in California. The failure to mail an invitation to any person as provided in this section shall not invalidate any action taken by the Board, Curriculum Commission, or Department.~~

~~With respect to the submission of instructional materials for adoption by the Board, publishers and manufacturers shall comply with the following requirements:~~

~~(a) Instructional materials may be submitted in any language, but essential teachers' materials shall be included in English.~~

~~(b) Publishers and manufacturers shall indicate, either in the teacher's edition or in the student's edition or both, which literary works contained in the student's edition or teacher's edition have been abridged, adapted, or excerpted. Publishers and manufacturers shall provide detailed descriptions of these changes upon request by the Department or local educational agencies.~~

~~(c) Publishers and manufacturers shall list, either in the teacher's edition or in the student's edition or both, only authors, reviewers, consultants, advisors, field-test teachers, and others who actually contributed to the development of the materials and shall indicate, for those who are listed, in what capacity they served. Publishers and manufacturers shall provide additional related information upon request by the Department or local educational agencies.~~

~~(d) Education Code sections 32060-32066 prohibit the purchase of toxic art or craft supplies for grades kindergarten through six and allow their purchase for grades seven through twelve only if they display a warning label. Publishers and manufacturers shall ensure that all art or craft materials included or suggested in their instructional materials comply with the requirements of these Education Code sections.~~

~~(e) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, which is included in the Invitation to Submit Basic Instructional Materials for Adoption, publishers and manufacturers shall provide to the Department a list of all instructional materials that will be submitted for adoption. Receipt of submission information after this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless publishers or~~

~~manufacturers can show extenuating and compelling circumstances beyond their control.~~

~~(f) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall deliver samples of instructional materials to the evaluators and locations specified by the Department. Failure to meet the deadline for delivery of samples shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher or manufacturer can show extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publishers and manufacturers. In addition:~~

~~(1) Publishers and manufacturers shall deliver all samples in final form (i.e., a form that will be offered for purchase over the period of adoption) unless written permission to submit a sample in other than final form is obtained from the Department before any samples are shipped.~~

~~(2) Publishers and manufacturers shall deliver all samples free of shipping, handling, sampling, or other charges.~~

~~(3) After the final date for delivery of samples, changes or modifications to instructional materials during the adoption review period by the publisher or manufacturer shall result in disqualification of the materials from the adoption unless those changes or modifications are made pursuant to the Board's social content review or educational content review.~~

~~(4) Publishers and manufacturers shall retrieve samples of nonadopted instructional materials from display centers during the first thirty (30) days following the date of Board adoption. The deadline for retrieval shall be specified in the Schedule of Significant Events in the invitation. All materials shall be retrieved without any cost to the display center or its staff. Display center directors may dispose of or donate for educational use any samples of instructional materials not retrieved within the 30-day period. Board and Curriculum Commission members, instructional materials reviewers, and Department staff may offer their samples back to publishers and manufacturers, retain their samples, or donate them, provided that the materials are used to benefit~~

~~public education in California.~~

~~(g) On or before 5:00 P.M. of the date specified in the Schedule of Significant Events, publishers and manufacturers shall submit to the Department price quotations (bids) for the sale of completed materials, including all transportation costs.~~

~~(h) Publishers and manufacturers are discouraged from withdrawing from a state adoption after the submission of their materials. No publisher or manufacturer may withdraw their submitted instructional materials from a state adoption within seven working days prior to the beginning of the Instructional Materials Advisory Panel educational content deliberations, which date(s) shall be specified in the Schedule of Significant Events. Publishers and manufacturers withdrawing prior to this date shall be so noted in the Curriculum Commission's report of adoption recommendations.~~

~~(i) Other than during the times specified in the Schedule of Significant Events, publishers and manufacturers shall not contact Instructional Materials Advisory Panel members during their tenure to discuss anything related to the state evaluation or state adoption of materials. Contact initiated by publishers or manufacturers regarding the evaluation or adoption of materials may lead to disqualification of the publisher's or manufacturer's materials from further consideration in the current adoption, legal action, or both. Instructional Materials Advisory Panel members shall not discuss materials under adoption consideration with publishers or manufacturers or their spokespeople or representatives.~~

~~(j) Publishers and manufacturers shall not publicize in printed marketing materials any part of the Instructional Materials Advisory Panel Report.~~

~~(k) Follow-up adoptions shall be based on the Invitation to Submit Basic Instructional Materials and evaluation criteria issued for the primary adoption. A new Schedule of Significant Events shall be approved prior to implementing a follow-up adoption.~~

(a) The CDE shall provide a copy of the Invitation to Submit to every publisher that submits a request and also make it available on its website.

(b) Publishers submitting instructional materials for SBE adoption shall comply with the Invitation to Submit.

(c) Publishers shall adhere to all dates and times set forth in the Schedule of Significant Events**, as approved by the SBE**.

(d) On or before 5:00 p.m. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE a CD-ROM and hard copy containing the following submission information (Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show the CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.):

(1) A list of all instructional materials that will be submitted for adoption.

(2) A short narrative description of the instructional materials that will be submitted. The description should not exceed 6 pages, single spaced.

(3) A description of the technology requirements that will be necessary to review the submitted instructional materials.

(4) Contact information for the publisher's primary contact for the adoption, a California contact, and a contact for technology-based matters.

(e) Upon its determination that the submission information is complete, the CDE will request samples of all instructional materials for evaluation.

(f) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall provide to the CDE completed standards maps on a CD-ROM and in hard copy for all instructional materials that have been accepted for evaluation.

(g) On or before 5:00 P.M. on the date specified in the Schedule of Significant Events, publishers shall deliver samples of all instructional materials that have been accepted for evaluation to the evaluators and locations specified by CDE. Failure to meet this deadline shall result in disqualification of the instructional materials from further consideration in the current adoption unless the publisher can show CDE that there were extenuating and compelling circumstances involving natural disasters or independent carriers beyond the control of the publisher.

(h) Publishers shall deliver all samples free of shipping, handling, sampling, or other charges.

(i)~~(d)~~ Publishers shall include in instructional materials submitted for adoption, only content standards approved by the SBE and specified in the evaluation criteria for the adoption. Adopted instructional materials shall not include references to national standards or standards from other states.

(j) Publishers shall list, in the teacher's edition and/or in the student's edition submitted for adoption, only authors, reviewers, consultants, advisors, field test teachers, and others who actually contributed to the development of the materials and the capacity in which they served.

(k)~~(e)~~ Publishers shall submit all instructional materials in the same physical form that will be offered for purchase during the adoption period with the following exceptions:

(1) Audio recordings may be submitted in manuscript form;

(2) Artwork may appear in black and white that will ultimately appear in color in the instructional materials offered for purchase during the adoption period.

(3) Alternate formats as described in section 9528.

(l)~~(f)~~ Except as described in sections 9528 and 9529, ~~P~~publishers shall not change or modify instructional materials after the date specified in the Schedule of Significant Events for delivery of instructional materials to IMRs, CREs and LRDCs. Instructional materials changed or modified after this delivery date shall be disqualified from consideration in the ~~A~~adoption unless the changes or modifications are **approved by the SBE ~~made pursuant to the SBE's direction~~**.

(m) On or before 5:00 p.m. of the date specified in the Schedule of Significant Events, publishers shall submit to the CDE price quotations for the sale of completed instructional materials, including all transportation costs.

(n) Publishers are discouraged from withdrawing their instructional materials from the adoption after the materials have been submitted. Any such withdrawal may be noted in the Curriculum Commission Advisory Report and Adoption Report.

(o)~~(q)~~ Publishers shall not publicize in marketing materials any part of the **IMR/CRE** Report of Findings**, Curriculum Commission Advisory Report** or the Adoption Report.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200, ~~60201,~~ 60202, 60204, ~~60206,~~ 60221~~,~~ and 60222~~, and 60227~~, Education Code.

§9517.1. Follow-Up Adoptions: Notice to Publishers and Manufacturers, Intent to Submit, Fee, List of Adopted Materials.

~~Follow-up adoptions shall be conducted according to the following requirements:~~

~~(a) The Board shall ensure that a written notice of an upcoming follow-up adoption in a given subject is posted on the Department Website and mailed to all publishers or manufacturers known to produce instructional materials in that subject. The notice shall include:~~

~~(1) A "Schedule of Significant Events."~~

~~(2) Specifications for "Intent to Submit."~~

~~(b) Each publisher or manufacturer shall provide an "Intent to Submit" that specifies the following:~~

~~(1) Number of programs that the publisher or manufacturer will submit.~~

~~(2) Number of grade levels covered by each program.~~

~~(c) Based on the specifications in subdivision (b) as reported in the "Intent to Submit," the Department shall assess a fee of $5,000 per grade level submitted for review.~~

~~(d) A "small publisher" or "small manufacturer," as defined in Education Code Section 50227(f)(3), may request a reduction of the fee by submitting documentation that includes, but is not limited to, the following:~~

~~(1) A statement of earnings for the most recent three fiscal years.~~

~~(2) Number of full-time employees excluding contracted employees.~~

~~(3) A statement verifying that the small publisher or small manufacturer is not dominant in its field for the subject matter being submitted for follow-up adoption.~~

~~(e) Instructional materials approved by the Board in a follow-up adoption shall be added to the existing adoption list for that subject and remain on the list until the established expiration date for that list.~~

NOTE: Authority cited: Sections 33031 and 60206, Education Code. Reference: Sections 60200, 60201, 60202, 60204, 60206, 60221, 60222 and 60227, Education Code.

§9518. Social Content ~~Review of Instructional Materials~~ Standards for All Instructional Materials Adoptions.

~~**The standards and criteria in the publication entitled Standards for Evaluation of Instructional Materials with Respect to Social Content, referenced in Section 9511, shall apply to all instructional materials approved by the Board for compliance with social content requirements, as follows:**~~

~~**(a) Reviews of instructional materials for compliance with social content requirements may be conducted by the Department or its agent.**~~

~~**(b) The Department shall notify publishers or manufacturers in writing of approval of instructional materials for compliance with social content requirements or any citations of noncompliance.**~~

~~**(c) If a publisher or manufacturer requests that their instructional materials be reviewed for compliance with social content requirements, and those materials are not concurrently being submitted for adoption, the Department or its agent may charge publishers and manufacturers a fee not to exceed the cost of the service for conducting a social content review and/or for including them in the list of instructional materials which have been approved by the Board for compliance with social content requirements. The list of approved materials shall be available to all school districts in the state. The publisher or manufacturer requesting such a review shall provide samples of instructional materials in completed form and in numbers to be determined by the Department.**~~

~~**(d) A publisher or manufacturer may appeal the decision of the Department or its agent to the Curriculum Commission. The following procedures apply:**~~

~~(1) Within thirty (30) days from the postmark date of the Department's written notification to a publisher or manufacturer of noncompliance with social content requirements, a publisher or manufacturer shall notify the Department in writing of proposed revisions or intent to appeal.~~

~~(2) The appeal shall be limited to consideration of citations of noncompliance identified during the initial social content review.~~

~~(e) A publisher or manufacturer may appeal the decision of the Curriculum Commission to the Board.~~

~~(1) Within ten (10) days following the postmark date of the Curriculum Commission's written decision, a publisher or manufacturer shall notify the Curriculum Commission chairperson of any intent to appeal to the Board.~~

~~(2) An appeal to the Board shall be limited to consideration of revisions or issues raised during the first-level appeal.~~

~~(f) Instructional materials which have been approved for compliance with social content requirements shall not be re-evaluated unless the materials have changed substantively, or the Board's social content standards and criteria have been amended to the extent that, in the judgment of the Board, a re-evaluation is necessary.~~

~~(g) Publishers and manufacturers shall not describe or represent as adopted by the Board those instructional materials which have passed only a social content review at the state level. Misrepresentation may result in deletion of the instructional materials from the list of materials approved for compliance with social content requirements.~~

The social content standards in the publication entitled *Standards for Evaluating Instructional Materials for Social Content*, 2000 Edition, approved by the SBE on January 13, 2000, and maintained on the CDE website at http://www.cde.ca.gov/ci/cr/cf/lc.asp, **are** ~~**is**~~ incorporated in this section by reference and **apply** ~~**applies**~~ to all SBE adoptions of instructional materials in all subjects.

NOTE: Authority cited: Sections 33031, 60005, 60048, 60200 and ~~60004~~60206, Education Code. Reference: Sections 60040-60044, ~~and~~60048, 60200 and 60200.2,

Education Code.

§9519. ~~Display of~~ Instructional Materials Review Panels and Curriculum Commission Advisory Report ~~and Curriculum Frameworks~~.

~~Before final adoption of any instructional materials, the Board shall make any instructional materials recommended for adoption available for public review for not less than thirty (30) days at display centers designated by the State Superintendent of Public Instruction. These dates shall be specified in the Schedule of Significant Events. Samples of instructional materials adopted by the Board shall be available at display centers for a minimum of two years from the date specified in the Schedule of Significant Events.~~

~~Prior to recommending any curriculum frameworks to the Board for adoption, the Curriculum Commission shall ensure that copies of the curriculum framework are mailed to any person upon request to the Curriculum Commission. Copies shall also be available at specified display centers throughout the state.~~

~~Public comment forms shall be provided at the display centers and may be used for written statements regarding instructional materials and curriculum frameworks. Use of a public comment form to submit a written statement shall not be required.~~

(a) The CDE will propose and the Curriculum Commission shall approve, for each adoption of instructional materials, the organization of IMRs and CREs into review panels**, the assignment of instructional materials to be evaluated by each review panel, and the assignment of a facilitator to each review panel**.

(b) Each review panel shall be composed of 5 to **15** ~~**11**~~ IMRs and CREs, of which a majority must be IMRs **who are teachers** and at least 1 must be a CRE.

(c) Each review panel must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria and social content standards.

(d) At the discretion of the chairperson of the Curriculum Commission, the chairperson of the Subject Matter Committee involved in the adoption or the Executive Director of the Curriculum Commission, a CRE or IMR with special

expertise may respond to questions raised by review panels to which the CRE or IMR has not been assigned.

(e)~~(d)~~ Each review panel shall decide which instructional materials to recommend for adoption.

(f)~~(e)~~ Each review panel shall make recommendations as to edits and corrections that should be made to instructional materials.

(g)~~(f)~~ Review panels shall not recommend rewrites of instructional materials.

(h)~~(g)~~ Each review panel is encouraged to reach consensus on recommendations. If necessary, the panel will conduct a vote with a simple majority necessary to put forward a recommendation.

(i)~~(h)~~ The recommendations of the review panels shall be compiled by the CDE into a document titled "**IMR/CRE** Report of Findings" that shall be presented to the Curriculum Commission. **At least 10 days before the first meeting of the Curriculum Commission that follows the issuance of the IMR/CRE Report of Findings, the CDE shall distribute the IMR/CRE Report of Findings to the Curriculum Commission and post it on its website.**

(j)~~(i)~~ The Curriculum Commission**, the CDE, ~~and~~** the SBE**, or SBE staff** may call upon IMRs**, ~~and~~** CREs**, or other experts** to assist **the Curriculum Commission or the SBE** in understanding how instructional materials meet the content standards, curriculum frameworks, evaluation criteria and social content standards.

NOTE: Authority cited: Sections 33031, 60005~~,~~ and 60206 ~~60004~~, Education Code. Reference: Sections 60200 and 60204 ~~60202~~, Education Code.

§9520. Written Statements to the Curriculum Commission Regarding Instructional Materials and Curriculum Frameworks Submitted for Adoption.

~~Any person may submit to the Curriculum Commission a written statement regarding any instructional materials or curriculum frameworks submitted for Board adoption, as follows:~~

~~(a) A statement of error appearing in the instructional materials or curriculum~~

~~framework. The statement shall indicate the page, pages, or place in which the error appears, shall include a specification of the error, and, where possible, shall mention a responsible source of information from which the Curriculum Commission can confirm the existence of such error.~~

~~(b) A statement of objection to a specified item of content which shall include the page number of other identification of, and reference to, the item of content to which objection is made, and the grounds for the objection.~~

~~(c) Comments relating to any other factor of which the Curriculum Commission should be aware before making a decision to recommend the instructional materials or curriculum framework to the Board for adoption.~~

~~(d) A general objection to the adoption of the instructional materials or curriculum framework. The statement shall include a brief statement of the objection and evidence or grounds supporting the objection.~~

~~(e) A statement supporting the instructional materials or curriculum framework as a whole or any portion thereof. The statement shall include the reasons for supporting the recommended adoption or for supporting specified portions thereof.~~

~~Written statements, typewritten (or in clearly legible manuscript), shall be mailed postpaid, to the Executive Secretary of the Curriculum Development and Supplemental Materials Commission, 721 Capitol Mall, Sacramento, California, 95814, postmarked not later than ten (10) days prior to the date set for the Curriculum Commission's public hearing on the instructional materials or curriculum framework.~~

NOTE: Authority cited: Section~~s~~ 33031 and 60004, Education Code. Reference: Section 60202, Education Code.

§9521. ~~Public Hearings Held by the Curriculum Commission and the Board Regarding Instructional Materials and Curriculum Frameworks~~ Public ~~Written~~ Comments Regarding Content of Instructional Materials.

~~**Prior to recommending a curriculum framework or any instructional materials to the Board for adoption, the Curriculum Commission shall hold at least one public hearing on the curriculum framework and at least one public hearing on**~~

~~any instructional materials submitted fro Board adoption.~~

~~Prior to adopting a curriculum framework, the Board shall hold a public hearing on the curriculum framework. Pursuant to Education Code section 602023, the Board shall hold a public hearing on any instructional materials submitted for adoption.~~

(a) **Oral and written public comment, whenever submitted, addressing the content of instructional materials should specifically identify the instructional material and page number where the subject content appears and, if pertinent, provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards and, if pertinent, suggest a correction to the identified problem.** ~~Any person, including the CDE or its agent, may submit a typewritten (or clearly legible handwritten) comment regarding the content of instructional materials to the Executive Director of the Curriculum Development and Supplemental Materials Commission, 1430 N Street, Suite 3207, Sacramento, California, 95814, postmarked not later than 14 days prior to the date set for review panel deliberations in the Schedule of Significant Events. Notice of this deadline shall be posted at all LRDCs and on the CDE website.~~

(b) Any written comment ~~received after the above deadline will be accepted, but may not be evaluated by the IMRs and CREs~~ **from a member of the public regarding the content of instructional materials that is received by the Executive Director of the Curriculum Commission not less than 14 days prior to the first date set for review panel deliberations in the Schedule of Significant Events, will be distributed to the review panel that is reviewing the instructional material that is the subject of the comment not less than 7 days before the first day of deliberations. Notice of these deadlines, and the Executive Director's mail, email, and facsimile addresses, shall be posted on the CDE website and at the LRDCs on the date when instructional materials being submitted for adoption are to be delivered to the LRDCs.**

~~(c) Written comments challenging the content of instructional materials shall~~

~~**specifically identify the instructional material and page number where the subject content appears and provide a reason as to why the content is inaccurate or does not meet the content standards, curriculum frameworks, evaluation criteria or social content standards.**~~

~~**(d) No later than the first day of deliberations, CDE staff will distribute written comments that were received by the above deadline to the review panel that is reviewing the instructional material that is the subject of the written comment.**~~

~~**(e) IMRs and CREs on the review panel shall evaluate the written comments that were received by the above deadline during deliberations.**~~

~~**(f) All written comment received in accordance with this section shall be forwarded with the Report of Findings to the Curriculum Commission and to the SBE.**~~

(c)~~**(g)**~~ Nothing in this section shall restrict a member of the public from directly addressing a state body**, orally or in writing,** at any public meeting relating to the adoption of instructional materials.

NOTE: Authority cited: Sections 33013, 60005 and ~~60004~~ 60206, Education Code. Reference: Sections 60200 ~~60203~~ and 60202 ~~60204~~, Education Code; Section 11125.7, Government Code.

§9522. ~~Speakers~~ Presentation of Public Testimony

~~Persons wishing to address the Curriculum Commission on a subject to be considered at a further meeting, including any matter designated as a public hearing, shall present a written request to the Executive Secretary of the Curriculum Development and Supplemental Materials Commission, 721 Capitol Mall, Sacramento, California, 95814, by noon of the third working day before the scheduled meeting, stating the subject they wish to address, the organization they represent, if any, and the nature of their testimony.~~

At or before any public hearing related to the evaluation or adoption of a curriculum framework, evaluation criteria, or instructional materials, at which oral comments from the public are to be received, the chairperson or presiding member of the hearing body

shall 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.

NOTE: Authority cited: Sections 33031, 60005 and ~~60004~~ 60206, Education Code. Reference: Sections ~~33530, 33534 and 33535~~ 60200, Education Code; Section 11125.7, Government Code.

§ 9523. ~~Presentation of Public Testimony~~ Display of Instructional Materials for Public Inspection.

~~At or before the hearing at which oral comments from the public are to be received, the Curriculum Commission chairperson or the chairperson of a hearing body other than the full Curriculum Commission shall determine the total amount of time that will be devoted to hearing such oral comments, and may determine the time to be allotted to each person or to each side of an issue.~~

(a) On or before the delivery date designated in the Schedule of Significant Events, publishers shall send instructional materials that are being submitted for adoption to LRDCs at the addresses indicated in the Invitation to Submit. Instructional materials that are submitted for adoption shall be displayed at the LRDCs at least until the date the SBE adopts instructional materials.

(b) LRDCs shall ensure that instructional materials received are on display within three weeks after the date of receipt **unless circumstances beyond the control of the LRDC prevent such display, in which case the instructional materials will be displayed within a reasonable amount of time.**

(c) Instructional materials adopted by the SBE shall be available at LRDCs for a minimum of two years after the date of adoption.

NOTE: Authority cited: Sections 33031 and 60005 ~~60004~~, Education Code. Reference: Section 60202 ~~33536~~, Education Code.

§ 9524. ~~Waiver by Chairperson~~ Public Hearings Held by the Curriculum Commission and the State Board of Education Regarding Instructional Materials.

~~At any time, upon a showing of good cause, the Curriculum Commission~~

~~chairperson or the chairperson of a hearing body other than the full Curriculum Commission may waive the requirements of Sections 9522 and 9523.~~

(a) Prior to recommending instructional materials to the SBE for adoption, the Curriculum Commission shall do the following:

(1) Not more than 30 days after the issuance of the **IMR/CRE** Report of Findings, the Curriculum Commission shall hold a public hearing during which any interested party may provide the Curriculum Commission with written or oral comments regarding the submitted instructional materials and/or the recommendations contained in the **IMR/CRE** Report of Findings. **The primary purpose of this hearing is to afford the Curriculum Commission an opportunity to receive comment from those who disagree with any part of the IMR/CRE Report of Findings.**

(2) Curriculum Commissioners must evaluate instructional materials according to the SBE adopted content standards, curriculum frameworks, evaluation criteria, and social content standards

(3) Not **less** ~~**more**~~ than 30 days after the Curriculum Commission meeting discussed in subdivision (a)(1) above, the Curriculum Commission will hold a second public meeting at which time it will adopt its recommendations to the SBE regarding instructional materials, and edits and corrections.

(4) The Curriculum Commission**'s recommendations shall be compiled into a document titled** ~~**may add to the**~~ **"Curriculum Commission Advisory** Report**."** ~~**of Findings to include**~~ **Those** recommendations **may be** different than those of the review panels **as contained in the IMR/CRE Report of Findings**~~**, but shall in no way delete or alter the recommendations of the review panels**~~. The Curriculum Commission shall not recommend rewrites of instructional materials. The **Curriculum Commission Advisory** Report ~~**of Findings, as approved by the Curriculum Commission**~~ shall be presented to the SBE **along with the IMR/CRE Report of Findings**.

(b) Following the Curriculum Commission meetings described above, the SBE will hold at least one public meeting **before** ~~**to**~~ adopt**ing** both instructional materials and edits and corrections **and issuing its Adoption Report**.

NOTE: Authority cited: Sections 33031, 60005 and ~~60004~~ 60206, Education Code. Reference: Section ~~33536~~ 60200, 60203 and 60204, Education Code.

§ 9525. Post Adoption Edits and Corrections Procedures.

(a) Following the action of the SBE on a specific instructional materials adoption, CDE staff will notify publishers, in writing, of any edits and corrections adopted by the SBE.

(b) Within 60 days of the SBE adopting instructional materials and edits and corrections, publishers shall provide to the CDE copies of final printed instructional materials that reflect all modifications required by the SBE. If the publisher can show that circumstances beyond its control prevented it from delivering final printed instructional materials within the 60 day period, the CDE may grant a reasonable extension to the publisher.

(c)~~(b)~~ CDE staff will schedule individual meetings with each publisher to discuss edits and corrections, at which time publishers will provide evidence showing that the adopted edits and corrections have been made to the adopted instructional materials.

(d)~~(c)~~ Under direction from the SBE, CDE staff may work with Curriculum Commissioners, CREs, or any additional content experts as needed to evaluate whether publishers have made the adopted edits and corrections to their instructional materials.

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Section 60200, Education Code.

Article 2.1. ~~Adoption of Curriculum Frameworks and Instructional Materials – Procedures~~ Acquisition of Adopted Instructional Materials

~~Article 2.2. Acquisition of Adopted Instructional Materials~~

§9527. Free ~~or Gratis Items~~ Instructional Materials.

~~If free instructional materials are offered to school districts, publishers and manufacturers shall comply with the following requirements in addition to those stated~~

~~in Education Code section 60061:~~

~~(b) Publishers and manufacturers shall inform the Department in writing of all offers of free instructional materials within thirty (30) working days of the effective date of the offer so that all school districts may have the opportunity to order these materials. Failure or refusal by the publisher or manufacturer to inform the Department within this deadline shall constitute a rebuttable presumption that the violation of Education Code section 60061 was willful.~~

(a) ~~**Only adopted instructional materials may be offered by a publisher as free or gratis items to a governing board district board, elementary school, middle school or high school.**~~ **In order to comply with the statutory requirement that publishers provide any instructional materials free of charge in this state to the same extent as that received by any state or school district in the United States, publishers shall post on their website a list of any free instructional materials that they have agreed to provide to a county office of education, district board, elementary school, middle school or high school within 10 days of entering into such an agreement. Publishers shall maintain this list on their websites through the next biennial price adjustment referenced in Education Code section 60223, at which time the statutory requirement regarding the instructional materials on the list shall end.**

~~**(b) Publishers shall inform the CDE in writing of the terms and duration of an proposed offer of free or gratis items at least 30 working days prior to the effective date of the offer.**~~

~~**(c) As a condition of adoption, any publisher choosing to provide free or gratis items shall provide CDE with the URL for a publisher-maintained website. This website shall be a direct link to the free or gratis items instructional materials being offered so that they are easily discerned. The website will identify free or gratis items with the ISBN or identifier that appears on the list of adopted materials.**~~

(b) The publisher shall provide the CDE with the URL to their list of free instructional materials, and the CDE shall post on its website a direct hyper link

to the URL provided by the publisher.

NOTE: Authority cited: Sections 33031, 60005 and ~~60004~~ 60206, Education Code. Reference: Section 60061, Education Code.

§9528. Alternate Formats of Adopted Instructional Materials.

~~Alternate formats are (1) Instructional materials which are identical in content to adopted instructional materials but different in physical format, or (2) translations or literature that is equivalent in content to adopted instructional materials. Publishers and manufacturers may submit alternate formats of adopted instructional materials to the Department for approval at any time during the period of adoption.~~

~~Submissions for approval shall include a sample of the proposed alternate format material.~~

~~An alternate format package may include free instructional materials that have not been adopted by the Board, provided that:~~

~~(a) the non-adopted free materials have passed a state review for legal compliance with the social content requirements as required by Section 9527 and in accordance with Section 9518.~~

~~(b) the purchase price of the alternate format package shall not include any costs attributable to the non-adopted free instructional materials such as, but not limited to, development and production, correlation to the adopted materials, packaging and shipping costs.~~

~~(c) the publisher or manufacturer includes with the submission a certification of compliance with the proviso in subdivision (b) of this section, and~~

~~(d) the publisher includes in the alternate format package a statement that identifies any items that are free and which have not been adopted by the Board.~~

(a) Publishers may submit alternate formats of adopted instructional materials to the CDE for approval at any time during the period of adoption.

(b) Alternate formats of adopted instructional materials shall include:

(1) instructional materials that are identical in content to adopted instructional materials, but that are different in physical format, and

(2) translations of adopted instructional materials into other languages. Translations of adopted instructional materials into other languages may include different literary selections that are equivalent in content to those contained in the English version.

(c) Submissions of alternate formats shall be reviewed as follows:

(1) For approval of an alternate physical format, the CDE staff will review submitted materials to confirm that the content is identical to the adopted instructional materials.

(2) For approval of alternate formats in languages other than English, the CDE will employ qualified CDE staff or contract with experts in the alternate language to review the materials to confirm that the translation is accurate and to determine if the materials are equivalent in content to the adopted instructional materials. **Different literary selections must be approved by the SBE.**

~~(d) The price of the alternate format shall be equal to or lower than the adopted instructional material.~~

NOTE: Authority cited: Sections 33031, 60005 and 60206, Education Code. Reference: Sections 60200 and 60222, Education Code.

§ 9529. New Editions of Adopted Instructional Materials.

~~Upon written request by a publisher or manufacturer, the Department may approve a new edition of an instructional material to replace the original edition adopted by the Board, provided that:~~

~~(a) Changes contained in the new edition are so minimal that both the new edition and the old edition may be used together in a classroom environment. (Technical upgrades of computer software which do not contain educational or social content changes shall be exempt from this requirement.)~~

~~(b) All changes comply with the social content requirements of Education Code sections 60040-60044 and the Board's Standards for Evaluation of Instructional Materials with Respect to Social Content.~~

~~The price of the original edition or a lower price shall apply until the next scheduled biennial price adjustment for that subject area.~~

(a) Upon written request by a publisher, the CDE may approve a new edition of an

adopted instructional material to replace the original adopted edition, provided that:

(1) Changes contained in the new edition are so minimal that both the new edition and the original adopted edition may be used together in a classroom environment. No additional content may be included in the new edition

(2) All changes comply with the social content standards set forth in the publication entitled Standards for Evaluating Instructional Materials for Social Content, 2000, as referenced in section 9518 above. The price of the new edition is equal to or lower than the price of the original adopted edition.

(b) Upgrades of technology-based materials that do not contain content changes can be made by publishers without CDE approval, unless the upgrade results in a new ISBN or identifier.

NOTE: Authority cited: Sections 33031, 60005 and ~~60004~~ 60206, Education Code. Reference: Sections 60040-60044, 60061, 60222 and 60223, Education Code.

§9530. School District Ordering of Instructional Materials.

~~**Each school district shall purchase adopted instructional materials directly from publishers and manufacturers. With respect to the purchase of instructional materials by a school district, the publisher or manufacturer shall comply with the following requirements:**~~

~~**(a) The provisions of Education Code section 60061 and 60061.5.**~~

~~**(b) Instructional materials furnished and delivered to the school district by the publisher or manufacturer shall conform to and be of the same quality of workmanship as the samples of the respective instructional materials submitted by the publisher or manufacturer to the Department, except that the instructional materials shall also include all revisions, corrections, additions, and substitutions required by the Board at the price adjusted by the Board and the publisher or manufacturer.**~~

~~**(c) Upon request by any school district, a publisher or manufacturer shall provide a copy of any manufacturing standards and specifications for textbooks with which the publisher or manufacturer is currently in compliance.**~~

~~(d) A discontinuation of an instructional material before its adoption expiration date or before eight years, whichever is less, may cause a hardship on the school districts by limiting the reorder availability of components necessary for the use of instructional materials sets or programs. Should the publisher or manufacturer discontinue to supply an instructional material before its adoption expiration date or before eight years, whichever is less, without prior written approval from the district, upon receipt of written notice from the district, the publisher or manufacturer shall buy back, from all school districts having received the program, set, or system within the adoption period of the program, set, or system, all components of the instructional materials program, set, or system in which the discontinued item was designed to be used. The publisher shall buy back the instructional materials program, set, or system at the price in effect pursuant to the purchase order or agreement at the time the particular material from the program, set, or system is discontinued.~~

~~(e) The failure of the publisher or manufacturer to perform under the term of any purchase order or agreement by late or nondelivery of instructional materials, or the discontinuation to supply materials without prior approval by the Board and the delivery of unauthorized materials will disrupt and delay the intent of the school district's educational process, causing loss and damage to the school, its students, and the public interest. It is difficult to assess and fix the actual damages incurred due to the failure of the publisher or manufacturer to perform. Therefore, the publisher or manufacturer shall comply with any of the following requirements made by the school districts pursuant to this section as compensating or liquidating damages and not as penalties:~~

~~(1) For purposes of this subdivision, unauthorized instructional materials are those that do not appear in exact description and terms in the purchase order or agreement or are materials that have not been approved for delivery to California schools in written notice to the publisher or manufacturer from the Board or Department.~~

~~Should the publisher or manufacturer deliver unauthorized instructional~~

~~materials to the school district, on written notice from the district, the publisher or manufacturer shall comply with the following requirements:~~

~~(A) Withdraw the delivered unauthorized instructional materials from the school district.~~

~~(B) Replace the unauthorized instructional materials with authorized materials that are comparable in subject matter, quality, quantity, and price in the California schools.~~

~~(C) Incur all costs of transportation or any other costs involved to complete the transactions of withdrawing and replacing unauthorized materials.~~

~~(D) Complete the transactions of withdrawing unauthorized instructional materials and replacing them in the school district with comparable authorized materials within 60 calendar days of the receipt of written notice from the district.~~

~~(2) Should the publisher or manufacturer fail to deliver instructional materials within 60 days of the receipt of a purchase order from the school district and the publisher or manufacturer had not received prior written approval from the district for such a delay in delivery, which approval shall not be unreasonably withheld, the school district may assess as damages an amount up to five hundred dollars ($500) for each working day the order is delayed beyond sixty (60) calendar days. If late delivery results from circumstances beyond the control of the publisher or manufacturer, the publisher or manufacturer shall not be held liable. Pursuant to this section, the maximum dollar amount that shall be assessed to the publisher or manufacturer by the school district from any individual purchase order shall be twenty thousand dollars ($20,000.00). Should the district take such action, the district shall give the publisher or manufacturer written notification of the delivery delay and the date commencing the accrual of dollar amounts to be assessed to the publisher or manufacturer.~~

Each school district shall purchase adopted instructional materials directly from publishers. With respect to the purchase of adopted instructional materials by a school district, the publisher shall comply with the following requirements:

(a) Instructional materials furnished and delivered to the school district by the

publisher shall conform to and be of the same quality of workmanship as the instructional materials submitted for adoption.

(b) Upon request by any school district, a publisher shall provide a copy of any manufacturing standards and specifications for instructional materials with which the publisher is currently in compliance.

(c) Should the publisher discontinue an instructional material before its adoption expiration date ~~**or before eight years, whichever is less**~~, upon receipt of a written request from a district that has purchased the discontinued instructional materials, the publisher shall buy back from the school district all of the instructional materials discontinued and any instructional materials designed to be used with the discontinued instructional material. The publisher shall buy back the instructional materials at the price in effect pursuant to the purchase order or agreement at the time when the instructional materials were purchased.

(d) Should the publisher fail to deliver adopted instructional materials within 60 days of the receipt of a purchase order from the school district, and the publisher has not received prior written approval from the district for such a delay in delivery, which approval shall not be unreasonably withheld, the school district may assess as damages an amount up to $500 for each working day the order is delayed beyond 60 calendar days. If late delivery results from circumstances beyond the control of the publisher, the publisher shall not be held liable. Pursuant to this section, the maximum dollar amount that shall be assessed to the publisher by the school district from any individual purchase order shall be $20,000.00. Should the district take such action, the district shall give the publisher written notification of the delivery delay and the date commencing the accrual of dollar amounts to be assessed to the publisher.

NOTE: Authority cited: Sections 33031, 60005 and ~~60004~~ 60206, Education Code. Reference: Sections 60061 and 60061.5, Education Code.

06-22-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: June 29, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 18

SUBJECT: Adoption of Kindergarten Through Eight Instructional Materials: Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations, Sections 9510-9530

Enclosed are the following attachments for Agenda Item 18:

Attachment 3: Summary Chart of Written Comments Received During the 45-Day Public Comment (40 pages)

Attachment 4: Summary Chart of Written and Oral Comments Received During the March 13, 2007, Public Hearing (30 pages)

SUMMARY CHART OF WRITTEN COMMENTS RECEIVED DURING THE 45-DAY PUBLIC COMMENT

WRITER	COMMENT §9510 DEFINITIONS	RESPONSE
Mary-Alicia McRae	**Page 2, line 6** Strike the word *"minimal"* under edits and corrections.	CDE believes that extensive changes should not be necessary to ensure accuracy in textbooks that are submitted for adoption. The use of the term "minimal" helps to distinguish "edits and corrections" from rewrites. CDE recommends no change
Wendy A. Levine	**Page 1, lines 27-28** Publishers should be permitted to provide non-adopted instructional materials as free or gratis items to school districts that purchase their adopted programs. Once a program is adopted by the State Board, publishers should have the freedom to promote or market their programs as they see fit. This may or may not include gratis items, pricing discounts, etc. **Page 2, line 30** Moving materials from one grade level to another constitutes a "rewrite", but this has happened due to a printing error, not a content error.	In order to comply with the statutory authority, CDE concurs with this comment and recommends amending the definition by deleting the reference to "adopted" instructional materials. CDE believes that the definitions for "edits and corrections" and "rewrites" succeed in differentiating between the two concepts. A printing error as described by this comment would not necessarily require a rewrite. However, a third grade text that incorporates a second grade framework would require a rewrite to comply with the content standards. CDE recommends no change.
Mary –Alicia McRae Chair, Curriculum	**Page 2, line 6** We are not comfortable with the term "minimal".	See above response.

Development and Supplemental Materials Commission (Curriculum Commission)	The issue is content, or effect, not quantity. **<u>Page 1, line 15</u>** Please check Education Code citations for standards in content areas besides the core areas and include content standards beyond the four core areas **<u>Page 2, lines 25-30</u>** Consider removing the term minima. Delete lines 25-30 on page 2, the section that deals with "rewrites". Add language to strengthen and define edits and corrections.	Education Code 60605 and its sequence establish standards in English/language arts, mathematics, science, history-social science, physical education, visual and performing arts, but *Education Code* Section 51210.8 requires the SBE to adopt health standards. A technical change will be made to the regulations when the SBE adopts the health standards. The adoption process is designed to determine whether instructional materials that are submitted for adoption meet the content standards, curriculum framework and evaluation criteria, not to rewrite materials to meet these requirements. Therefore, a distinction must be made between the two concepts. CDE recommends no change.
David W. Foster Silicon Valley Mathematics Initiative (SVMI)	**<u>Page 1 & 2 , lines 10-11</u>** Descriptive language of the purpose of the section is vague. Suggested revisions: *"For purposes of developing curriculum frameworks, and evaluation criteria for instructional materials adoptions, the following shall apply:* *(c)Content standards are academic content standards adopted by the SBE, pursuant to*	CDE believes this changes the meaning in a way that is inaccurate. These regulations concern the adoption of curriculum frameworks, evaluation criteria and instructional materials. CDE recommends no change. Not a significant difference. CDE recommends no change.

	Education Code section 60605, et. Seq.	
	(e) Curriculum Commissioner is an individual appointed to the Curriculum Commission, pursuant to Education code section 33530	CDE concurs with the comment and recommends making this change.
	(f) Deliberations mean the open public meetings designated in the Schedule of Significant Events during which time the committees, comprised of Instructional Materials Reviewers (IMRS) and Content Review Experts (CREs) discuss instructional materials submitted for adoption, in order to vote on their recommendation, and to develop a Report of Findings, which is submitted to the Curriculum Commission.	Not a significant difference. CDE recommends no change.
	Page 2 Definitions should be in alphabetical order. Edits and corrections are incorrectly place after Learning Resources Display Center.	CDE concurs with the comments and recommends making this change.
	Replace “imprecise” in referring to definitions, and omit “simple” from the reference to errors. Implies subjective judgment.	CDE believes that some degree of subjective judgment cannot be eliminated from a determination regarding what constitutes “edits and corrections.” CDE recommends no change.
	Page 1, lines 29-32 *(i) Invitation to Submit Instructional Materials (Invitation to Submit) or (ITS) is the document prepared by the CDE preceding each subject matter instructional materials adoption that*	Not a significant difference. CDE recommends no change, except to include a reference to the content standards, curriculum framework and evaluation criteria.

	designates the statutes, regulations, specifications and timelines that govern the adoption process. The document serves both as an invitation to publishers to participate in the process, and also as a reference guide for individuals who are appointed to serve as Instructional Materials Reviewers (IMRs) and Content Review Experts (CREs) during orientation and training to serve on adoption review committees." **Page 2, lines 18-21** This description of the Report of Findings is far too specific to be considered a definition. Suggest incorporation in the body of regulations.	CDE recommends changing the name of the "Report of Findings to the "IMR/CRE Report of Findings" to help distinguish it from the "Curriculum Commission Advisory Report." The definition for both of these reports needs to be specific as they are key documents that help the SBE determine whether instructional materials meet the content standards, curriculum framework, evaluation criteria and social content standards.
Suhag A. Shukla, Esq. California Members of the Hindu American Foundation (HAF)	**Page 2, lines 4-6** Proposed changes to draft: *"(k) Edits and corrections are changes that must be made to submitted instructional materials to meet the content standards, curriculum frameworks, evaluation criteria and …"* **Page 2, line 8** (2) imprecise, *incorrect and inaccurate* definitions.	CDE believes that these types of changes should be considered "rewrites," and therefore, are covered in the definition of "rewrites." CDE does not recommend this change. Accuracy is covered in the first sentence of the definition CDE does not recommend this change.

	Page 2, line 18 Suggested change: Spell out IMR and CRE, IMR and CRE not previously defined. Add CFCC to definitions	 IMR and CRE are defined in the definition of "deliberations." CDE does not recommend this change. The Curriculum Framework and Evaluation Criteria Committee is defined and described throughout section 9511 and does not lend itself to a simple definition. CDE does not recommend this change.
WRITER	**COMMENTS §9511 CURRICULUM FRAMEWORK AND EVALUATION CRITERIA COMMITTEE COMPOSITION AND MEMBERSHIP QUALIFICATIONS**	**RESPONSE**
Mary-Alicia McRae	**Page 3, lines 24-25** Suggestion: "CFCC members shall have subject matter expertise and professional knowledge of, and successful experience with *standards based* education programs and practices."	 CDE recommends that the term "standards-based" should be added.
Wendy A. Levine	**Page 3, lines20-21** Are 20 writers too many? We need to define "content expertise" (holding an advanced degree, etc.)	 CDE has considered the number of CFCC members and believes that a maximum of 20 provides the proper amount of flexibility to address the various content areas. The term "content expertise" is not used. The term "expertise" is used and is explained within the regulation. CDE does not recommend this change.

Mary-Alicia McRae Curriculum Commission	**Page 3, line 20** We recommend dropping the reference to "20" members. By not setting a maximum, it gives more flexibility to address differences in content areas. **Page 3, lines 24-25** We recommend that you roll these items (d & e) together. Drop the word "effective" from line 25. *"CFCC members shall have subject matter expertise and professional knowledge and experience with standards based educational programs and practices. A majority of CFCC members, at the time of appointment, shall be classroom teachers, or mentor teachers, currently assigned to teacher kindergarten or grades 1-12."* **Page 3, line 28** Leave (f) as is.	See response above. CDE recommends modifying this section to provide more detail regarding the CFCC and its members. CDE concurs that the term "effective" should be dropped. CDE proposes to change (f), now (i), to be even more inclusive.
David. W. Foster SVMI	**Page 3** The terms successful and effective are subjective terms and should not be included in the regulations. Retain the previous portion on the regulations which stated: "*The SBE shall, to the extent possible, appoint persons who are representative of the various ethnic groups and types of school districts in the*	CDE concurs with this comment and recommends deleting both terms. CDE concurs with this comment and recommends adding similar language (which is also found in statute) to part (i).

	state." **<u>Page 3, line 29</u>** Suggested revision: after "serving as a CFCC member " add "*provided the individuals can present evidence of prior professional or voluntary experience in K-12 education."*	CDE has considered this recommendation and believes it is too restrictive. CDE does not recommend this change.
Suhag A. Shukla, Esq. HAF	**<u>Page 3 (a) line 16</u>** Proposed change: *"(a) The SBE **Shall** establish a Curriculum Framework and Evaluation Criteria Committee (CFCC) to assist in the process of reviewing or developing a curriculum framework and evaluation criteria and making a recommendation to the Curriculum and SBE. **The CFCC shall prepare the draft curriculum frameworks and evaluation criteria for a given subject area for submission to the Curriculum Commission".*** **<u>Page 3, lines 24-30</u>** Add the following, renumber accordingly: *"(f) At least one CFCC member, at the time of appointment, shall be a Framework Review Expert (FRE). FREs shall be experts in the subject area of a curriculum who:* *1) hold a doctoral degree in that field, and have taught within that particular field at a well-reputed university or college for a minimum of ten (10) semesters; or* *2) have a masters degree or higher in that field*	The SBE has discretion, pursuant to statute, to determine whether an advisory task force to the Curriculum Commission is necessary. CDE does not recommend this change**.** CDE has considered this recommendation and believes that it is too restrictive. However, CDE does propose changes to this section including the addition of focus groups to meet in different regions of California and the inclusion of teachers who have expertise in providing instruction to English Learners and students with disabilities**.**

	and seven (7) or more years of experience and curriculum expertise in that particular field."	
Mark Schneidermann Software & Information Industry Association (SIIA)	**Page 3, line 24** Insert "*… including at least two, but preferably more, individuals with significant knowledge of and experience in using technology-based instructional materials and the opportunities they present for the curriculum framework"* at the end after "practices."	CDE has considered this recommendation and believes that it is too restrictive.
Tricia Papapietro for Ken Burt California Teachers Association (CTA)	**Late Comment. Received 3/15/07**	No response required.
WRITER	**COMMENT §9512 APPOINTMENT OF INSTRUCTIONAL MATERIALS REVIEWERS AND CONTENT REVIEW EXPERTS**	**RESPONSE**
Mary-Alicia McRae	**Page 4, line 16-18** A person who holds a doctoral degree in a related field ought to be allowed to be a CRE. Leeway could be given to the Commission to allow engineers, for examples, to be CREs in Math.	CDE concurs with this comment and recommends changing this section as proposed in parts (e) and (f)
Mary-Alicia McRae Curriculum Commission	**Page 4, line 13** Recommend changing from 1-8 to *"K-12"* **Page 4, lines 16-19** The definition of CRE is restrictive. It does not allow for differences in the various subject areas, e.g. Reading/Language Arts and Visual and	CDE concurs with this comment and recommends changing to "kindergarten or grades 1-12" in part (c). See above response.

	Performing Arts.	
David W. Foster SVMI	**<u>Page 4</u>** "Successful" and "effective are subjective terms and should be dropped. Suggest including: *"The SBE shall, to the extent possible, appoint persons who are representative of the various ethnic groups and types of school districts in the state."*	CDE concurs with this comment and recommends deleting both terms. CDE concurs with this comment and recommends adding similar language (which is also found in statute) to part (g).
Suhag A. Shukla, Esqu. HAF	**<u>Page 4, Lines 16-19</u>** Provide a description of what respective tasks IMRs and CREs would have. **<u>Line 17:</u>** to (f)(1) add *", and have taught within that particular field at a well-reputed university or college for a minimum of ten (10) semesters or* *(2) … seven (7) or more years of **practical experience** and curriculum expertise in that **particular** field."*	The regulations clearly address the role of the IMRs and CREs in the adoption process. CDE recommends no change. CDE believes that providing a definition for a "well-reputed university or college" would be extremely difficult and not necessarily ensure participation of a well reputed scholar. As for the time limits, they would have the unintended effect of discouraging young academics from participating in the adoption process. CDE does not recommend these changes.
Michael Matsuda	**<u>Page 4</u>** I strongly recommend that a regulation promulgated which requires the Curriculum Commission to consider only the information	Sections 9511(e) and 9512(b) both state that recommendations to the SBE regarding appointments shall be made according to the qualifications listed. CDE

	contained in an individual CFCC, IMR, or CRE application when determining which applicants will be recommend to the SBE.	believes that the addition of language geared at regulating people's subjective judgment or personal experiences could not be enforced.
Mark Schneiderman SIIA	**Page 4, line 9** Insert "*… including knowledge of and experience in using technology-based instructional materials"* at the end after "practices".	The CDE believes the proposed language would be too restrictive. However, CDE proposes language in section 9519(d) that would enable IMRs and CREs with special expertise to respond to questions raised by other review panels. This would include questions regarding technology-based instructional materials.
Charles Munger, Jr.	**Page 4, lines 12-13** Proposed for (d) Include Kindergarten through grade 12, rather than K-8	See above response
WRITER	**COMMENT §9513 APPLICATION PROCESS FOR CURRICULUM FRAMEWORK AND EVALUATION CRITERIA COMMITTEE MEMBERS, INSTRUCTIONAL MATERIALS REVIEWERS AND CONTENT REVIEW EXPERTS.**	**RESPONSE**
Mary-Alicia McRae	**Page 4, line 27** Suggest 180 days rather than 90.	Ninety days is a minimum. In practice more time is generally provided. CDE recommends no change.
Wendy A. Levine	**Page 4, line 27** We need to start soliciting application long before 90 days. Six months is more like it.	See above response.
Mary-Alicia McRae Curriculum Commission	**Page 4, Line 31** Following line 31 add "Depending on the subject area, the Curriculum Commission develops applications for each adoption and they are approved by the SBE."	CDE recommends changes to this section which make clear that the SBE approves the application forms.

Suhad A. Shukla, Esq. HAF	**<u>Page 5, after line 4</u>** Add the following: *(d) all applicants shall be required to disclose any potential conflict of interests that may affect his or her ability to fulfill the role in an unbiased and professional manner, including but not limited to information regarding past (the last 5 years), current of future relationships with any entities or organizations. Disclosures of potential conflicts of inters shall be available to the public."*	Conflicts of interest for designated employees are covered by 2 California Code of Regulations Section 18730. CDE believes that there is no need for additional regulation. CDE recommends no change.
	(e) The SBE shall make available to the public, an up to date list of CFCC members, IMRs, FREs, and CREs with a detailed description of the CFCC member, IMRs, FREs, and CREs qualifications and the subject area for which he or she will be consulted.	CDE concurs that the public should be able to review and comment on the qualifications of potential CFCC members, IMRs, and CREs. Therefore CDE proposes additional language as set forth in part (c).
	(f) The SBE and/or CDE shall investigate and respond to any questions or concerns submitted in writing by a member of the public as to the qualifications of a CFCC member, FREs, IMR and/or CRE.	CDE believes this requirement would be too burdensome. As addressed above, the public will be able to review the applications and comment at public meetings regarding potential CFCC members, IMRs and CREs. CDE recommends no change.
Michael Matsuda	**<u>Page 5, line 1</u>** Add to (b) "*CDE staff shall not pre-screen or disqualify applications for any reason other than incompleteness of information."*	Pursuant to the proposed regulation in part (b), the CDE, Subject Matter Committee and the Curriculum Commission review submitted applications only to ensure completeness. Incomplete application need only be completed prior to appointment by SBE.
	Strongly recommend that a regulation be promulgated which required the Curriculum	See above response

	Commission to consider only the information contained in an individual CFCC, IMR, or CRE's application when determining which applicants will be recommended to the State Board of Education	
Michelle M Herczog California Council for the Social Studies (CCCSS)	**Page 5, line 1** As reflected above, add to (b) *"CDE staff shall not pre-screen or disqualify applications for any reason other than incompleteness of information".*	See above response.
WRITER	**COMMENT §9514 PROHIBITED COMMUNICATIONS**	**RESPONSE**
Mary-Alicia McRae	**Page 5, lines 11-24** Publisher should have more time during deliberations to dialogue with panels. Publishers should be able to communicate with commissioners during the entire process in order for publishers and commissioners to clarify points.	The proposed regulation allows for communication during open public meetings. CDE believes that this allows for adequate communication and ensures that the general public will be able to participate in any discussions that occur. CDE recommends no change. While CDE believes that publishers and Commissioners should strive to communicate during open public meetings, CDE does not believe that the regulations should single out publishers and restrict their communications with commissioners. Therefore, CDE concurs with this comment and recommends deleting the language contained in the original part (c).
Wendy A. Levine	**Page 5, lines 9-10** CFCC members should be allowed to share draft copies of the frameworks in order to solicit feedback from the public, instead of soliciting	CDE concurs and recommends deleting the language contained in the original part (a).

	feedback at the end of the process. These should be public documents, even when in draft form. **<u>Lines 11-16</u>** Publishers should have the opportunity to address the questions of panelists throughout the deliberations process. Public comment does not allow adequate time for questions to be addressed. Nor for answers to be clarified. **<u>Lines 71-23 (c)</u>** Commissioners should continue to be allowed to meet privately with publishers for the purpose of giving insight into how materials can better meet the standards and criteria. Publishers have the right to present their materials to commissioners on an individual basis. Requiring publishers to share their trade secrets regarding new programs in development is unfair.	See above response. See above response. See above response.
Charles Munger, Jr.	**<u>Page 5, lines 17-24</u>** **<u>(c)</u>** Suggest changing this section to state: *" Publishers, or their representatives shall not, between the date a program is delivered to IMRs and CREs for review and the date the Report of Findings is issued to the Curriculum Commission, communicate with members of the Curriculum*	CDE recommends deleting this original part (c). See above response.

	Commission about anything related to the evaluation or adoption of that program except during the times for public comment during open public meetings. Such contact may result in the disqualification of the publisher and the Curriculum Commissioner by the SBE from further participating in the subject adoption. "	
Mary-Alicia McRae Curriculum Commission	**Page 5** Keep a, b, & d. Commissioner Levine wished to strike a. Delete c. Commissioner Velasquez indicated that protocol as an alternative to c might be developed, such as having Commissioners disclose that they met with a specific publisher, only name and date, not content of meeting.	CDE proposes deleting (a). See above response**.**
David W. Foster SVMI	**Page 5** This section is vague and appears to be out of sequence. Reorganization of section needed. More detail needed in regulation in which adoption committee members are prohibited from discussing the materials amongst themselves when the committees are not in session. At present, the instruction to IMR, CRE regarding communication with publishers is part of the training script, but should be in the regulations.	CDE believes this section is in an appropriate location in the regulations. Pursuant to the discussion above, however, CDE proposes changes to the section. CDE believes that this issue is addressed by the Bagley-Keene Open Meeting Act. CDE does not recommend this change. CDE believes this language is in the proposed regulations at new part (a). CDE recommends no change.

Suhad A. Shukla, Esq. HAF	**Page 5, line 16** (b) and (c) *"…after occurrence of such contact has been disclosed to the public by the CDE."* Also strike "IMR/CRE" from (b) and strike Curriculum Commission from (c).	CDE recommends new language for this section as discussed above. CDE does not believe the recommended language is necessary as any action by the SBE would be in a public meeting.
Michael Matsuda	**Page 5** To provide transparency, recommend that Commissioners be required to keep a log of communications with publishers during the regulated time period. I also suggest that reasonable communication between publishers and IMRs, CREs and Commissioners be allowed outside the prescribed public comment periods during deliberations. Current practice seems overly restrictive and doesn't address the real issue with publisher-Commissioner communication.	While CDE believes that publishers and Commissioners should strive to communicate during open public meetings, CDE does not believe that the regulations should single out publishers and restrict their communications with commissioners. Therefore, CDE concurs with this comment and recommends deleting the language contained in the original part (c).
Michelle M. Herczog CCSS	**Page 5** We applaud the inclusion of this section, but suggest that removal of a curriculum commission from participation in the subject adoption is not enough. A breach of public trust of this section is grounds for removal of the commissioner from the commission.	CDE recommends deleting original part (c) as discussed above. Therefore, this is no longer a relevant comment.
Mark Schneiderman SIIA	**Page 5** After (d) insert: *"(e) The Curriculum Commission and SBE shall adopt a curriculum framework and evaluation criteria that shall support inclusion of, and include*	The regulations in no way restrict the submission of technology based instructional materials. CDE recommends no change

	criteria for the evaluation of, technology-based instructional materials."	
Stan Metzenberg	**<u>Page 5 , lines 22-23</u>** <u>SBE has no authority to disqualify a curriculum commissioner</u>: The power to disqualify a Curriculum Commissioner from conducting his or her duties is not a power that is specifically given to the SBE in Education Code, and such a power would be in conflict with the independent duties placed on the Commission by the legislature, and with sections of Government Code related to disqualification of members of commissions.	CDE recommends deleting original part (c) as discussed above. Therefore, this is no longer a relevant comment.
	<u>Partial Independence of the Commission from the State Board</u> Since the legislature requires the Commission to do certain things, it amounts to an assignment of duties to the Commission, and the recommendation is to be independent.	CDE recommends deleting original part (c) as discussed above. Therefore, this is no longer a relevant comment.
	<u>Commissioners do not serve at the pleasure of the SBE:</u> None of the 18 Commissioners serves at the pleasure of the SBE. Five of the 18 members are not appointees of the SBE.	CDE recommends deleting original part (c) as discussed above. Therefore, this is no longer a relevant comment.
	<u>Process for Disqualification is explained in Government Code, not Education Code</u> There are no specific provisions for	CDE recommends deleting original part (c) as discussed

	disqualification or removal of a Commissioner from office. In the absence of such provision, Government Code § 1021 would apply. "A person disqualified from holding any office upon conviction of designated crimes as specific in the Constitution and laws of the State." The SBE's assertion that disqualification of Commissioners is a part of their governance of the Commission lacks merit.	above. Therefore, this is no longer a relevant comment. CDE recommends deleting original part (c) as discussed above. Therefore, this is no longer a relevant comment.
WRITER	**COMMENT §9515 DISPLAY OF CURRICULUM FRAMEWORKS AND EVALUATION CRITERIA FOR PUBLIC INSPECTION AND COMMENT**	
Mary-Alicia McRae	**Page 6, line 25** Change 10 to 14. Commissioner should receive a copy of this 7 days prior to their vote.	CDE concurs that the deadline should be 14 days prior to the date set for the public meeting. CDE proposes adding language that would require the comments to be distributed to the commissioners 3 days before the meeting.
Wendy A. Levine	**Page 6** If written comments are to be sent to the Executive Director, it should be specified that all of these comments will be forwarded to members of the Commission, unedited, within a certain number of days of receipt.	The language as proposed states that the comments will be forwarded to the curriculum commission. The CDE believes the proposed language is unnecessary.
David W. Foster SVMI	**Page 5** Suggest change title to *"Public Inspection of and Comment on Curriculum Frameworks and Evaluation Criteria"*	CDE believes that the proposed title change is not necessary to achieve clarity. CDE recommends no change.

Suhag A. Shukla, Esq. HAF	**<u>Page 6, lines 21-27</u>** Line 25 strike all after "prior to the date set" and substitute "*for a public meeting in which the CFCC shall deliberate all submitted comments. Comments may also be submitted by facsimile (FAX) to a number provided by the Executive Director of the Curriculum Development and Supplemental Materials Commission, or by e-mail to an email address provided by the same by the close of business on the postmark due date indicated above. Notice of this deadline shall be posted at all LRDCs and on the CDE website. Public comment shall include name and pertinent contact information, including, but not limited to phone number, facsimile, number and email address.*	CDE concurs that an email address and facsimile address should be included.
	(d) Persons having submitted any comments shall be provided written confirmation of receipt of his or her comments and information regarding which committee or review panel such comments have been forwarded to by the Executive Director of the Curriculum Development and supplemental Materials Commission. Written confirmation shall be delivered via U.S. Mail, faxsimile (FAX) or email prior to the deadline for submission.	CDE believes that providing written confirmation of receipt is unduly burdensome. CDE does not recommend this change.
	(e) A comment submitted by a person may include, but is not limited to, statement of error appearing in a curriculum framework and evaluation criteria; statement of objection of the same; comments relating to any other factor of	CDE proposes changes to this section that more clearly set out the process. Nothing in the new language proposed by CDE restricts the type of comments that may be submitted. Therefore, CDE does not believe this proposed change is necessary.

	which the CFCC and/or Curriculum Commission should be aware before recommending a curriculum framework and evaluation criteria to the SBE for adoption; a general objection to the adoption of a curriculum framework and evaluation criteria or statement supporting adoption of the same. *(f) After public meeting in which all submitted public comments are deliberated, the CFCC shall promptly generate a Public Comment Review Report providing statement of reason as to the acceptance and incorporation of a comment into a draft curriculum framework and evaluation criteria or rejection thereof. With the exception of technical and grammatical changes, the CDE shall make available to the public the Public Comment Review Report and the full text of any modified curriculum framework and evaluation criteria by posting such on the CDE website and at all LRDCs at least 30 days prior to the public hearing in which the Curriculum Commission deliberates its recommendation to the SBE. The CDE shall also notify by U.S. Mail, facsimile (FAX) or email, the availability of the Public Comment Review Report and full text of any modified curriculum framework and evaluation criteria to those persons who submitted written comments related to the curriculum framework and evaluation criteria, or who provided oral testimony, if a public hearing was held, or who have*	The CDE has considered this proposed change and does not believe that it is necessary and would be unduly burdensome. CDE does not recommend this change.

	requested notification of any changes to the proposal."	
Michael Matsuda	**<u>Page 6, lines 11-15</u>** Subsection (a) should be augmented with the following sentence: *"The 45 day review period shall begin on the first date that the drafts are made available on the CDE website."*	CDE concurs and proposes language that would also increase the period to 60 days.
Mark Schneiderman SIIA	**<u>Page 6, line 31</u>** Insert: *"(e) The curriculum Commission and SBE shall adopt a curriculum framework and evaluation criteria that shall support inclusion of, and include criteria for the evaluation of, technology-based instructional materials."*	CDE believes that this comment dictates the content of the criteria which is not the subject of these regulations. CDE does not recommend this change.
WRITER	**COMMENT §9516 PUBLIC HEARINGS HELD BY THE CURRICULUM COMMISSION AND THE SBE REGARDING CURRICULUM FRAMEWORKS AND EVALUATION CRITERIA**	**RESPONSE**
Mary-Alicia McRae	**<u>Page 7</u>** Suggestion: Add a time line to the public meeting before the CC vote. This public meeting could be 30 days before the voting meeting.	This section requires that the Curriculum Commission and the SBE both hold at least one public meeting prior to recommending/adopting the curriculum framework and evaluation criteria. The public meeting may take place at the same time the commission or SBE acts. CDE does not recommend this change.

Mark Schneiderman SIIA	**<u>Page 7</u>** Suggestion: Change title to *"Public Hearing and Comments on Curriculum Frameworks and Evaluation Criteria before the Curriculum Commission and the SBE"*	CDE believes that the proposed title change does not improve clarity. CDE does not recommend this change.
Suhag A. Shukla, Esq. HAF	**<u>Page 7, line 24</u>** Suggest at least **10** votes required to pass instead of 9.	The two legislative members of the Curriculum Commission are not always able to attend or vote. Nine votes is current practice and ensures that at least a majority of the remaining Commissioners approve a framework when legislative members are absent or not voting.
WRITER	**COMMENT § 9517 PROCEDURES FOR SUBMITTING INSTRUCTIONAL MATERIALS FOR ADOPTION**	**RESPONSE**
Wendy A. Levine	**<u>Page 10, lines 32-33</u>** (e) Need to clarify that publisher should not have to submit their materials in all the forms it will be available (i.e. alternate formats, such as split volumes, etc.) **<u>Page 11, line 2</u>** I do not agree that black and white illustrations are acceptable for the adoption process with the exception of those few materials that get permission to submit items in "less than final format." The use of color can affect Universal Access and Program Organization evaluations.	CDE concurs with this comment and proposes new part (k)(3). CDE does not believe that lack of color photos should disqualify a program. CDE does not recommend this change.
David W. Forster SVMI	**<u>Page 10, lines 28-31</u>** The second sentence in this paragraph is already	State-adopted materials are evaluated according to the

	incorporated in evaluation criteria. To repeat it is unnecessary. In addition, the consideration that prohibition of references to national standards can be interpreted to constitute censorship.	California standards, and it should be clear to all districts purchasing instructional materials what standards the materials align to. To allow different standards would confuse teachers and may lead districts to think that there is a 1:1 correlation of the California standards to other standards.
Suhag A. Shukla, Esq. HAF	**Page 11, line 7-8** Recommend striking line 7 and 8 after "Adoption".	The proposed change would deprive the SBE of the ability to require edits and corrections to be made to the instructional materials. CDE does not recommend this change.
Mark Schneiderman SIIA	**Page 10, line 23** After "request" insert: *"and to every publisher whom CDE, in its judgment, is known to produce instructional materials included in that Invitation to Submit,"* **Page 10, line 28 (d)** Delete "shall" and insert "*need"* after "Adopted Instructional Materials" **Page 11, following line 3** Insert "*(3) Other technology based-instructional materials may be submitted in alternative technology formats or platforms for the purpose of facilitating access for review purposes, so long as the materials itself is the same."*	CDE believes this is overly burdensome. CDE does not recommend this change. See above. CDE concurs with this comment and proposes new part (k)(3).

	<u>Page 11, line 4</u> Insert: *(f)""Unless otherwise allowed by statute or regulation"* before "Publishers Shall" **<u>Page 11, Line 11</u>** Insert: *"(h) In the case of technology-based instructional materials, publishers may submit for review, as determined by the publisher, either(1) a computer pre-loaded with the material; (2) a designated website at which the material can be accessed and reviewed; or (3) other means determined by the publisher or manufacturer as appropriate for enabling review of the materials. In the case of option (2) the state shall ensure sufficient access in terms of computer availability and high speed internet access."*	CDE concurs with this comment. CDE believes that those publishers submitting technology-based instructional materials should not face special requirements, but have an incentive to provide the means for reviewers to access their materials. Therefore, CDE does not believe that publishers need to be regulated in the way proposed and does not recommend this change.
WRITER	**COMMENT §9519 INSTRUCTIONAL MATEIRALS REVIEW PANELS AND REPORT OF FINDINGS**	**RESPONSE**
Mary –Alicia McRae	**<u>Page 14, lines 25-27</u>** Asking each review panel to complete the social review as well as evaluating materials is difficult. Come up with an open but different process for social review.	CDE believes that IMRs and CREs are in the best position to review instructional materials for compliance with the social content standards as they review each page of the materials and will also be trained to do so. Additionally, they have been performing this function in recent adoptions. CDE does not recommend a change.

	<u>Page 15, lines 3-5</u> There is no timeline for CDE to get information to the Commission on the Report of Findings. Can there be a 14 or 21 day timeline that the CDE gives these reports to commissioners, who need to study them at home when the commissioners have the materials in front of them?	CDE concurs with this comment and proposes a 10 day timeline as set forth in the language proposed in new part (i).
Wendy A. Levine	**<u>Page 14, lines 23-24</u>** Should we specify that the goal is to have an odd number of panel members?	While CDE concurs that it is best to have an odd number of panel members, it is not always possible because a reviewer may drop out at the last minute. In cases such as this, it would be too late to add a reviewer.
Raju Rajagopal	**<u>Page 14, line 23</u>** Suggest change to "*at least **2** must be a CRE."*	CDE cannot guarantee that it will be able to find enough volunteers to provide two CREs for each review panel. The language in the proposed regulation provides for a minimum. CDE proposes language in new part (d) that enables CREs with special expertise to respond to questions from other review panels.
Charles Munger, Jr.	**<u>Page 14, line 23</u>** Add "*At the discretion of the subject matter chair, a CRE with special expertise (for example, an Egyptologist) may respond to questions raised by panels to which the CRE has not been assigned, but in such cases will not vote as if a member of those panels."* **<u>Page 15, lines 3-5 (h)</u>** Add, at end of line 5 *".the date of this presentation defining the date of issuance of the Report. The*	CDE concurs with this comment and proposes language in new part (d). It is unclear what this proposed change is trying to accomplish; however, CDE proposes language to deal

	same date the reports shall be made available to the public." **<u>Page 15, lines 6-8</u>** Add "*(1) Not less than 30 days after the issuance of the Report of Findings, the curriculum Commission shall hold a public meeting during which any interested party may provide the Curriculum Commission with written or oral comments regarding the submitted instructional materials and/or the recommendations contained in the Report of Findings."* Add *"(3) Not less than 30 days after the Curriculum Commission meeting discussed in subdivision (a) (1) above, the Curriculum Commission will hold a second public meeting at which time it will adopt its recommendations to the SBE regarding instructional materials, and edits and corrections."*	with the timing of the issuance of the IMR/CRE Report of Findings and the availability of the report on its website in new part (i). CDE believes that this proposed requirement is already covered in the regulations in section 9524(a)(1). CDE does not recommend this change**.** CDE believes that this proposed requirement is already covered in the regulations in section 9524(a)(3). CDE does not recommend this change.
David W. Foster SVMI	**<u>Page 14, line 33(g)</u>** The nature of deliberations is not mentioned in these regulations, yet it is the review panel's deliberations that determine the acceptance or rejection of the instructional materials being examined. To prevent panel members from pressuring others not in agreement, the regulations should specify how deliberations should proceed. These procedures are part of the training of panel members, but they are not regulated. An important component of deliberations should be the process by which final	CDE believes that the deliberations process is adequately outlined in the regulations. Requiring more detail would only succeed in allowing less flexibility. Also the deliberations process results in the IMR/CRE Report of Findings. It does not result in the adoption of instructional materials.

	decision is reached. Suggest secret ballot should be required to protect the integrity of each panel member, and a ballot also be taken from members who are not present for the final vote. Should a majority vote not occur, the Report of Findings should reflect arguments pro and con, and panel members should review the manuscript and approve it before the report is submitted to the Curriculum Commission. Procedure for compiling Report of Findings should be in the regulations. Panel members should be able to challenge the report if they consider their opinions to be misrepresented in the document. If the manuscript required corrections, the documentation of the execution of corrections to the Report of findings should be available to the public. Individual members of the review committee should be entitled to file a statement that accompanies the Report of Findings, if, after filing a formal request for corrections, he/she determines the report does not accurately portray the finding of the committee. **Page 15, lines 6-8 (i)** This regulation as written is unethical. It implies that the review panels "Report of Findings" can be overruled by the Curriculum Commission and by the SBE, by the arbitrary selection of an IMR or CRE to consult with them to "assist in understanding" the instructional materials. The term "understanding" is highly subjective and should be omitted. If the purpose of this regulations is to assist the Curriculum	CDE proposes changes to the regulations that make it clearer that the IMR/CRE Report of Findings and the Curriculum Commission Advisory Report are separate documents that will both be forwarded to the SBE.

	Commission and the SBE in interpreting the Report of Findings, then the text should reflect this function. The regulation should also stipulate that the individual IMR or CRE who assists the Commission and/or SBE be allowed to comment only on the instructional materials that he/she actually reviewed, and that those individuals appointed to explain the Report of Findings be selected by the panel members to represent them. Furthermore, the assistance rendered by the IMR or CRE to the SBE should be public HFA record, and/or occur during public proceedings.	
Suhag A. Shukla, Esq. HAF	**Page 14, line 32 (f)** Recommend striking (f) **Pages 14-15, line 33, lines 1-2** **(g)** Add to g "*The CDE shall make the Report of findings available to the public by posting the report on the CDE website and all LRDCs immediately upon issuance of report and at least 30 days prior to the public hearing in which the Curriculum Commission deliberates its recommendation to the SBE."* **Page 15, line 6-8 (j)** Add to end of (j) *"All such communications, correspondences and meetings shall be open to the public."*	"Rewrites" are not permitted under these regulations. Therefore, IMRs and CREs should not recommend them. CDE does not recommend this change. CDE concurs that the IMR/CRE Report of Findings should be available to the public prior to the Curriculum Commission holding its first meeting following the issuance of the report. CDE proposes language in new part (i). CDE believes this comment does not require a change to the regulations as the issue is covered by the Bagley-Keene Open Meeting Act.

Mark Schneiderman SIIA	**<u>Page 14, line 23-24</u>** At end of line 24, add "*Including at least a total of two, but more preferably more, individuals with significant knowledge of and experience in using technology-based instructional materials."* **<u>Page 15, line 8</u>** Following paragraph (j) insert "*(k) In the case of technology-based instructional materials, the CDE shall establish a process whereby technical assistance shall be provided to a review panel member at their request, including to provide explanation of the material's functionality and navigation in so far as their format and design may differ from that of print instructional materials."*	CDE believes this requirement is too restrictive. CDE recommends no change**.** Under section 9514, IMRs and CREs are allowed to contact publishers for technical assistance. CDE does not recommend this change.
WRITER	**COMMENT § 9521 WRITTEN COMMENTS REGARDING CONTENT OF INSTRUCTIONAL MATERIALS**	**RESPONSE**
Mary-Alicia McRae	**<u>Page 16, line 23</u>** Change the time of the comments regarding the content of the instructional materials sent, to *no later than 21 days* prior to the date set for panel deliberations. Then the CDE will distribute these materials to panelists no later than *7 days* before deliberations. That ensures that reviewers have comments while they have all the materials in front of them at home.	CDE concurs that the comments should be delivered to the review panels prior to the first day of deliberations. CDE proposes language in new part (b).
David W. Foster SVMI	**<u>Page 17, lines 1-3</u>** Language is confusing as written. Suggest: *"No*	CDE recommends revising this section to be more

	later than the first day of deliberations, written comments addressing specific instructional materials submitted for adoption will be distributed by CDE staff to each member of the review panel assigned to evaluate the materials." **<u>Page 17, lines 6-8</u>** Suggest: *"All written comment received in accordance with this section shall be forwarded with the Report of Findings to the Curriculum Commission and to the SBE, and be designated part of the public record of adoption proceedings."*	concise. CDE proposes language in new part (a) and (b). CDE proposes change to section 9524 which make clear that both the IMR/CRE Report of Findings and the Curriculum Commission Advisory Report shall be forwarded to the SBE. See language in new section 9524(a)(4).
Suhag A. Shukla, Esq. HAF	**<u>Page 16, lines 19-25</u>** Line 24, (a) after "Schedule of Significant Events" add *" Comments may also be submitted by facsimile (FAX) to a number provided by the Executive Director of the Curriculum Development and Supplemental Materials Commission or by e-mail to an email address provided by the same by the close of business on the postmark due date indicated above."* Post notice of the deadline at all LRDCs and on the CDE website. **<u>Page 16, line 26-27 (b)</u>** Add "*Persons having submitted any comments shall be provided written confirmation of receipt of his or her comments and information regarding which committee or review panel such comments have been forwarded to by the Executive Director of the Curriculum Development and Supplemental Materials Commission. Written confirmation shall*	CDE concurs with this comment. CDE proposes language in new part (a) and (b). CDE believes that providing written confirmation of receipt is unduly burdensome. Persons having comments are encouraged to participate in the public meetings at which they can personally deliver any written or oral comments.

	be delivered via U.S. mail, facsimile (FAX) or email prior to the deadline for submission."	
	Page 16, lines 26-27 Strike existing lines 26 and 27.	CDE concurs. CDE proposes language in new part (b).
	Page 16, lines 28-32 (c) Add to (c) *" A comment submitted by a person may include, but is not limited to, statement of error appearing in content; statement of objection to the content; comments relating to any other factor of which the review panel and/or Curriculum commission should be aware before recommending an edit or correction or other change in content; a general objection to the adoption of an instructional materials or statement supporting adoption of the same. Written comments may include suggested alternate substitute language to: 1) correct an inaccuracy; 2) further clarify the content or; 3) bring the content into compliance with requisite standards, frameworks and criteria. Written Comments may also be accompanied by collaborative evidence supporting comment."*	CDE concurs in part with this comment, but believes the suggested language is too restrictive. CDE proposes language in new part (a).
	Page 17, line 3-4 (e) Add to (e)*" After deliberation, the review panel shall generate a Public Comment Review Report of all such comments providing statements of reason as to acceptance and incorporation of a comment in the content or rejection thereof. This Report shall be separate from the Report of*	CDE believes this suggested language is unduly burdensome and unnecessary. The findings of the review panels are compiled into a document called the IMR/CRE Report of Findings. The IMR/CRE Report of Finding is separate from the Curriculum Commission Advisory Report. CDE proposes a more detailed

	Findings. With the exception of technical and grammatical changes, the CDE shall make available to the public the Public Comment Review Report and the full text of any instructional material content changes or modifications by posting such on the CDE website and at LRDCs at least 30 days prior to the public hearing in which the Curriculum Commission deliberates on its recommendation to the SBE. The CDE shall also notify by U.S mail, facsimile (FAX) or email, the availability of the Public Comment Review Report and full text of any instructional material content changes or modifications to those persons who submitted written comments related to the instructional materials, or who provided oral testimony, if a public hearing was held, or who have requested notification of any changes to the instructional material content." **Page 17, Lines 5-6 (f) (h?)** Add after "with this section" line 6, *" and the Public Comment Review Report"*	description of this process in revised sections 9519 and 9524. See above response. CDE does not recommend this change.
Mike Matsuda	**Page 16, line 23 (c)** Suggest postmark date of one week prior to deliberations rather than 14 days. **Page 17, line 4-5(e)** This section should be changed to read " *IMRs and CRE shall take into consideration all public comment received when making a*	CDE proposes language in new part (a) modifying these deadlines. CDE proposes language in new parts (a) and (b) that provides guidance on how to submit comments and ensures that comments received by the deadline will be

	recommendation." If not changed, this subsection should be eliminated. Written comments, if requesting a response, should get one from the appropriate party.	provided to the IMRs and CREs. See above response. CDE believes this proposed procedure is unduly burdensome and unnecessary.
Mark Schneiderman SIIA	**Page 16, line 29 (c)** Delete "page number" and insert "*navigational reference point"* after "identify the instructional materials and,"	CDE believes that the page number is adequate to locate the language in question. CDE recommends no change.
WRITER	**COMMENT §9522 PRESENTATION OF PUBLIC TESTIMONY**	**RESPONSE**
David W. Foster SVMI	**Page 17, line 23** This regulation, which allows for the limitation of the time allowed for public testimony, appears to be overly restrictive. It would be helpful to provide at least a minimum allotted time for public comments, as well as a provision for how a member of the public may contribute comments to the Commission if he/she appears at the public hearing and the period of testimony ends before he/she has time to address the Curriculum Commission.	CDE believes that the language is consistent with the requirements of Government Code section 11125.7. The language does not prevent anyone who wants to comment from doing so. It only allows the chairperson to limit the amount of time each person is given to speak in order so that all who want to be heard will have the opportunity. CDE recommends no change.
WRITER	**COMMENT § 9523 DISPLAY OF INSTRUCTIONAL MATERIALS FOR PUBLIC INSPECTION**	**RESPONSE**
Mary-Alicia McRae	**Page 18** Try to have more LRDCs available for materials	LRDCs are not funded by the state. They are essentially

	submitted for adoption. There are not enough of these available for all constituents.	volunteers. Therefore, CDE strives to work with as many LRDCs as possible, but has no control over the quantity. CDE recommends no change.
Michael Matsuda	**Page 18** There should be a time frame specified in the regulations for the minimum amount of time materials must be on display at LRDCs.	The regulation states that the instructional materials will be on display within three week of receipt until the date the SBE adopts the materials. Once textbook are adopted, the adopted materials must be available for a minimum of two years. CDE recommends no change**.**
Mark Schneiderman SIIA	**Page 18, line 13-14(c)** Insert *"(d) LRDCs shall include computer hardware and internet access adequate to review technology-based instructional materials that may be, at the publisher's option, either installed on those computers or accessed through a web-browser from those computers."*	LRDCs are not funded by the state. They are essentially volunteers. CDE could not enforce this requirement.
WRITER	**COMMENT §9524 PUBLIC HEARING HELD BY THE CURRICULUM COMMISSION AND THE STATE BORAD OF EDUCATION REGARDING INSTRUCTIONAL MATERIALS**	**RESPONSE**
Wendy A. Levine	**Page 19, lines 4-8 (4)** This sounds like the SBE want to see the original panel reports, regardless of whether or not the commission agree with them. Perhaps the commission should select from one of the following: 1)Endorse the panel reports as is 2) Endorse the panel report, but with edits and corrections to the panel's citations or to the panel's list of suggested edits and corrections; or	The findings of the review panels are compiled into a document called the IMR/CRE Report of Findings. The IMR/CRE Report of Findings is separate from the Curriculum Commission Advisory Report. CDE proposes a more detailed description of this process in revised sections 9519 and 9524. The idea is to preserve the reports of the review panels and the curriculum commission so the SBE will have as much information as possible to make informed decisions.

	3) Write a separate report that expresses a different recommendation than that of the panel's report.	
David W. Foster SVMI	**<u>Page 19,</u>** It would be useful if consideration were given to the public regarding decisions on curriculum frameworks and evaluation criteria as well. If the public hearing precedes the SBE decision by a period of 30 minutes to an hour, there is little opportunity for suggestions and opinions of the public to be taken into consideration. This gives unfair advantage to lobbyists and who have the time and access to SBE members that others, such as teachers and other who work during the day. Suggest: (a) and (b) should specify that the public hearing should take place at minimum one week before the decision of the Commission or the SBE to either approve or reject instructional materials on the Curriculum Commission adoption list.	CDE believes the regulation allow for public comment and input during the CFCC meetings, Subject Matter Committee meetings, Curriculum Commission meetings and the SBE meetings. The SBE makes its decision only after this long public process. CDE does not recommend this change. The regulation requires at least two Curriculum Commission meetings held at least 30 days apart prior to the Curriculum Commission recommending instructional materials to the SBE. CDE does not recommend this change.
Suhag A. Shukla, Esq. HAF	**<u>Page 18, lines 24-28 (25-28?)</u>** Insert "*and Public Comment Review Report"* after "Report of Findings" , line 25, and also after "Report of Findings" , line 28. **<u>Page 19, lines 3-7 (4)</u>** Insert "*and Public Comment Review Report"* after "Report of Findings" in line 4, and also after	See response to Shukla comment (Page 17, line 3-4 (e)) above. CDE does not recommend this change. See above response. CDE does not recommend this change.

	"Report of Findings" , line 7	
Michael Matsuda	**Page 19 (4)** Subsection (a) (4) should specifically require that the IMR/CRE Reports of Findings be forwarded as written to the SBE, along with the Commission Report. The SBE should have the benefit of seeing the unedited IMR/CRE reports and this section should affirmatively state that such is the case.	CDE concurs with this comment. CDE proposes new language in section 9524(a)(4). See above response.
Michelle M. Herczog CCSS	**Pages18-19** Subsection (a)(4) should specifically require that the IMR/CRE Reports of findings be forwarded as written to the SBE, along with the Commission's Report	CDE concurs with this comment. CDE proposes new language in section 9524(a)(4).
WRITER	**COMMENT §9525 POST ADOPTION EDITS AND CORRECTIONS PROCEDURES.**	**RESPONSE**
Mary-Alicia McRae	**Page 19** The SBE should direct the work of Edits and Corrections to be conducted by the SMC Chair and CC Chair (and any CREs or content experts necessary), with the assistance of the CDE staff, to evaluate whether publishers have made the adopted edits and corrections.	CDE believes that the regulation allows for the assistance of curriculum commissioners and CREs (at the discretion of the SBE) in determining if the SBE adopted edits and corrections have been made by publishers. See new part (d). CDE does not recommend this change.
Wendy A. Levine	**Pages 18-19** The SMC chair and Commission Chair should be required to be part of the review to make sure edits and corrections have been made.	See above response. CDE does not recommend this change.

Charles Munger, Jr.	**Page 19, lines 22-25 (c)** Proposed (c*) The SBE may delegate to the Chair of the Commission and the relevant Subject Matter Chair, to be advised by CDE staff, publishers and such other experts as may be deemed necessary, the task of recommending how publishers should address the Edits and Corrections for programs that the State Board has adopted. Recommendations shall be final upon their subsequent approval by the Board. CDE staff shall thereafter confirm that the edits and corrections approved by the Board are in fact made to the instructional materials."*	CDE believes that the regulation allows for a process that gives the SBE discretion as to who it wants to assist CDE in verifying that the SBE's adopted edits and corrections have been made by publishers. CDE does not recommend this change.
Suhag A. Shuka, Esq. HAF	**Page 19, line 22** (c) Add *" Any post adoption edits and corrections communications between the SBE and CDE staff; and CDE staff and Curriculum Commissioners, IMRs or CREs shall be disclosed to the public. "*	The SBE edits and corrections are adopted by the SBE in open, public meetings and are part of the Adoption Report. CDE does not see the purpose behind the proposed language, and therefore, does not recommend the change.
WRITER	**COMMENT§ 9527 FREE OR GRATIS ITEMS**	**RESPONSE**
Michael Matsuda	**Page 20** I am unclear as to why only adopted materials may be given by a publisher to school districts. The Education Code specifies that only materials on the state adoption list may be purchased with state funds. If the materials are not being purchased, what is the authorizing statue that would prohibit a publisher from giving, or a school districting from accepting, any materials it wishes	CDE concurs that the statute does not restrict free instructional materials to adopted instructional materials, and therefore, proposes new language for section 9527.

	as long as state funds are not being used, assuming the offer is made to all districts?	
WRITER	**COMMENT § 9529 NEW EDITIONS OF ADOPTED INSTRUCTIONAL MATERIALS**	**RESPONSE**
Loretta Marion Scholastic Education	**Page 22, lines 17-19(b)** Under the proposed language related to upgrades of technology-materials states "unless the upgrade results in a new ISBN or identifier" are you referring only to an ISBN or identifier listed on a bid/contract? Or does it also refer to a new identifier or ISBN printed on an installer CD that is a component of a larger technology program but is NOT listed separately on the bid/'contract for sale?	This refers to ISBN or identifier used on the list of instructional materials submitted by the publisher in response to the Invitation to Submit.
Mark Schniederman SIIA	**Page 22, lines 9 (a)** In paragraph (a) delete "may approve" and insert "*shall approve within 30 days rule on approval of*" after "the CDE" **Page 22, line 17** Insert new paragraph "*(3) In the case of technology-based materials, the new edition can be substituted for the old edition for all copies, in which case changes may be more than minimal and include additional content, provided all changes comply with the social content standards are referenced in paragraph (a) (2) above."*	The time constraint is too burdensome. CDE does not recommend the change. No additional content is allowed without SBE approval. Reviewers must see all materials during review. CDE does not recommend this change.

	Page 22, line 18(b) SIIA supports the proposed change for this subsection.	No response necessary.
WRITER	**COMMENTS: ADDITIONAL COMMENTS NOT DIRECTED TO A SPECIF SECTION OF THE PROPOSED REGULATIONS**	**RESPONSE**
Michael Matsuda	**OTHER COMMENTS:** Regulations should require a maximum time in which the CDE must respond to questions from publishers and the public. CDE should be responsive to the public and a reasonable timeline for responding should be required in the regulations	This comment is vague. However, CDE believes the regulations set forth adequate timelines. CDE recommends no change.
Sen. Tom Harmon State Senator	Letter in support of the public input provided by Wendy B. Leece, at the March 13, 2007, Public Hearing. Concerns: Factual accuracy of textbooks is a deep concern. Must make policy changes in current system in order to ensure our children are being provided with textbooks that are factually accurate. Restricted access to submitted textbooks at the LRDCs substantively infringes on all citizens' right of petition, materially trenches on some citizens' ability to participate in the process at all, and that	No response necessary. See responses to section 9523 comments above.

	it adversely affects the quantity and quality of total public input.	
Ian McLean	<u>Concern:</u> Errors in California Textbooks: Errors in textbooks are often found by teachers, parents, students, school administrators, researchers and publishers after they have been adopted and are in use. A formal process for alerting school administrators, teachers, students and parents about confirmed errors after the textbook is in use should be established. AAP has established an online procedure for interested parties to report suspected errors in textbooks, for correction in subsequent editions. This does not help teachers and students using current editions. Publisher should maintain current up to date website to inform all of its customers about reported, suspected and confirmed errors. Regulations should require publishers to do this and place specific responsibilities on the State to take necessary steps to ensure timely and readily available way to communicate about confirmed errors.	CDE believes that concerns such as these can be expressed in a letter or oral comment during meetings of the Curriculum Commission or the State Board of Education. After instructional materials are adopted, members of the public may contact CDE and the SBE at any time if they believe there is an error. Publishers are notified if any suspected errors are identified and provided an opportunity to respond and, if necessary, correct the problem. CDE does not believe there is a need for additional regulations to address these points.

Michelle M. Herczog CCSS	<u>Concern:</u> Review members were directed to use holistic scoring for all evaluation criteria categories, with a combined holistic score for four of the categories. The report of findings consists of a simple statement that either confirmed or denied that the IMAP recommend the program for adoption. Consideration should be given to allowing IMR members to provide specific feedback to the Curriculum Commission and SBE to help inform their decision to recommend adoption of various programs.	The IMR/CRE Report of Findings serves the purpose of informing the Commission and the SBE about whether the submitted instructional materials meet the requirements of the criteria for evaluating instructional materials. Of those instructional materials that the IMR/CRP Report recommends for adoption, the Report does not seek to endorse one over another. The CDE has proposed new language in section 9519(j) that allows the Curriculum Commission or the SBE to call upon IMRs or CREs to assist in understanding how submitted instructional materials meet the content standards, curriculum frameworks and evaluation criteria.

SUMMARY CHART OF WRITTEN AND ORAL COMMENTS RECEIVED DURING THE MARCH 13, 2007, PUBLIC HEARING

SUBMITTED BY:	COMMENT §9510 DEFINITIONS	RESPONSE
Sherry Skelly Griffith Association of California School Administrators (ACSA)	**Written Comments** **Page 1, line 27** To (h) Add "county office of education", "middle or" and "after notification by the publisher to the California Department of Education" Rationale: County Offices and middle schools also receive gratis items. Definition should emphasize these are items on the state list of "gratis"	CDE concurs in part with this comment and proposes new language that adds "county office of education" and "middle school" to the recipients of free instructional materials. The new language proposed by CDE tracks the statutory language concerning free instructional materials.
	Page 1, end of line 32 Add the following "The Invitation to Submit is the binding document in which a publisher agrees to all the specifications within the document in order to participate in the adoption process." Rationale: Clarify that the Invitation to Submit is the binding agreement.	CDE believes that the statutes and regulations governing the adoption process control the process and not the Invitation to Submit. The Invitation to Submit sets out these regulations and statutes in one place.
	Page 2, line 24 (n) Report of Findings add "*(3) A description of the program including all ancillary components."*	CDE does not believe that the IMR/CRE Report of Findings needs to include this information. A description of the program is provided by the publisher.
	Oral Comments: Speaker reiterated written comments in this section.	No response necessary.

Bob Lucas Business for Science, Math, and Related Technologies Education (BSMARTE)	**Written Comments:** **Page 1, line 18** (n) We concur that the review panel should produce the report of findings with assistance of the Department.	No response necessary.
SPEAKER	**COMMENT §9511 FRAMEWORK and EVALUATION CRITERIA COMMITTEE COMPOSITION AND MEMBERSHIP QUALIFICATIONS**	**RESPONSE**
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 3** It is unclear if the Curriculum Framework and Evaluation Criteria Committee replaces the Subject Matter Committee **Page 3, line 24** How is “successful experience and effective education programs and practices” defined? A definition is needed. CFCC should begin work before the SMC and Commission begins its work. Add requirements that members posses	The Curriculum Framework and Evaluation Criteria Committee (CFCC) does not replace the Subject Matter Committees. CDE proposes new language in this section that more clearly sets out the role of the CFCC. CDE recommends deleting the terms “successful” and “effective.” See proposed new language in parts (f)-(h). If the SBE determines that a CFCC is necessary, the regulations require that the CFCC would make its recommendation to the SMC. See new language in part (b). CDE proposes new language requiring that at least one

	experience in providing instruction to English learners **<u>Page 3, lines 24 & 25</u>** Language should be included requiring racial and regional diversity of members appointed to the CFCC. **<u>Page 3, lines 28 & 29</u>** Insert language requiring two members be non-educators and preferably, parents of children attending a public school in California. **<u>Oral Comments:</u>** Speaker reiterated written comments in this section.	CFCC member have experience in providing instruction to English learners. See new language in part (f). CDE proposes similar language that conforms to the statutory language. See language in new part (i). CDE proposes language in new part (h) that allows for participation of parents and other non-educators. No response necessary.
Sherry Skelly Griffith ACSA	**<u>Written Comments:</u>** **<u>Page 3, line 24</u>** Add "content standards, standards based curriculum and assessment as well as instructional strategies." Rationale: Current description relies too heavily on the concept of knowing programs versus a broader knowledge. **<u>Page 3, line 30</u>** After line 30 add*: "The SBE shall ensure the appointment of a minimum of one school site administrator, one district administrator with expertise in working with English learners and students with disabilities, one parent, and one school board member and one expert in assessment."*	CDE concurs in part with this comment and proposes language in new part (g). CDE concurs in part with this comment and proposes language in new parts (f)-(h).

	Page 3, line 30 After line 30 add an additional section entitled "Content Review Experts for CFCC". Designate at least three experts, **parallel** to CRE as described in §9512. **Oral Comments:** Speaker reiterated written comments.	The current draft regulations do not prevent scholars and professors from serving on the CFCC and they will be encouraged to apply. However, CDE believes the regulations must guarantee the participation of teachers. No response necessary.
SPEAKER	**COMMENT §9512 APPOINTMENT OF INSTRUCTIONAL MATERIALS REVIEWERS AND CONTENT REVIEW EXPERTS**	**RESPONSE**
Dale Shimasaki Association of American Publishers (AAP)	**Written Comments:** **Page 4** We recommend that the Commission and SBE be required to disclose criteria used to select panelists and the background of each of the IMRs and CREs selected prior to their selection at the public meeting. Interested parties should be able to comment on any proposed appointee prior to selection. **Oral Comments:** Speaker reiterated written comments in this section.	The criteria are listed throughout this proposed regulation. Pursuant to new language in section 9513(c), the applications, minus personal information, will be available for public review. No response necessary.

Sherry Skelly Griffith ACSA	**Written Comments:** **Page 4, line 9 (c)** Add "*content standards, instructional standards, instructional strategies, assessment and effective instructional practices.*" Add new section: *"The SBE shall appoint school site and district administrators with expertise in working with English learners and students with disabilities. The SBE shall also appoint assement directors or coordinators, parents, and school board members."* **Oral Comments:** The speakers reiterated the written comments in this section.	CDE agrees in part with this comment and proposes new language in part (c). CDE concurs in part with this comment and proposes language in new part (d) that identifies administrators and local school board members; however, CDE does not believe that such participation must be mandatory. Also, CDE proposes new language in part (c) concerning appointment of an IMR who has experience with English learners and an IMR who has experience with students with disabilities. No response necessary.
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 4** IMRs and CREs should have experience in providing instruction to English language learners Recommendation: Require racial and regional diversity Reflect existing law as to the amount of time a person can serve	CDE concurs in part with this comment and proposes language in new part (c) that requires at least one IMR to have experience in providing instruction to English learners. CDE concurs and proposes language in new part (g) that tracks similar statutory language. CDE is unaware of any such statutory restriction; however, CDE proposes language in new part (i) ending service of IMRs and CREs when the SBE acts to adopt submitted instructional materials.

	Require CC to disclose to SBE criteria used by CDE, SBE staff and CC in addition to the qualifications of applicants. **Oral Comments:** Speaker reiterated written comments.	The criteria are spelled out in the proposed regulation. No response necessary.
Christine Bertrand California Science Teachers Association (CSTA)	**Written Comments:** **Page 4** Recommend a regulation which requires the Curriculum Commission to consider only the information contained in an individual application when determining which applicants will be recommended to the SBE **Oral Comments:** Speaker reiterated written comments.	Sections 9511(e) and 9512(b) both state that recommendations to the SBE regarding appointments shall be made according to the qualifications listed. CDE believes that the addition of language geared at regulating people's subjective judgment or personal experiences could not be enforced. No response necessary
Bob Lucas BSMARTE	**Written Comments:** **Page 4** The Commission should be restricted to consideration of information provided by the applicant or developed by staff and should not create new criteria on an ad hoc basis to judge the acceptability of a candidate **Page 4, line 16** Under (f) (1) add "or a related field" **Oral Comments:** Speaker reiterated written comments.	Sections 9511(e) and 9512(b) both state that recommendations to the SBE regarding appointments shall be made according to the qualifications listed. CDE believes that the addition of language geared at regulating people's subjective judgment or personal experiences could not be enforced. CDE concurs with this comment and recommends changing this section as proposed in new part (e). No response necessary.

SPEAKER	COMMENT §9513 APPLICATION PROCESS FOR CURRICULUM FRAMEWORK AND EVALUATION CRITERIA COMMITTEE MEMBERS, INSTRUCTIONAL MATERIALS REVIEWERS AND CONTENT REVIEW EXPERTS.	RESPONSE
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 4, lines 32 & 33** Add language requiring CDE staff to provide a matrix to the SBE displaying individuals on the advisory committee, their qualifications, membership on CFCC, time served on committees, number of vacancies and type of representations needed **Oral Comments:** Speaker reiterated written comments.	CDE believes this requirement is unnecessary and too burdensome and seeks to regulate the internal management of CDE. CDE does not recommend this change. No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 4, Line 9** After “educational programs” add “content standards, instructional strategies, assessment and effective instructional “ Add new section “The SBE shall appoint school site and district administrators including administrators with expertise working with English learners and students with disabilities. The SBE shall also appoint assessment directors or coordinators, parents and school board members.”	CDE agrees in part with this comment. See new language in part (c). CDE believes this language is too restrictive; however, CDE proposes new language in parts (c) and (d) that address English learners, students with disabilities and appointment of parents and local school board members.

	Page 5, line 2 After "Curriculum commission." Add: "The CDE and SBE staff shall present all applications to the SBE and any committees appointed to review the applicants shall also see all the applications. The Commission shall include in their recommendations all applicants and list which applicants are recommended and which applicants are not recommended. In addition to the commission's recommendations, the SBE shall have available to them all applicants prior to their selection. Upon the appointment of a SBE screening committee, SBE and CDE staff shall not screen out applicants to be considered before the SBE screening committee meets to review applicants. The SBE shall then appoint .." Rationale: SBE needs access to all applications in order to have a picture of who has applied. **Oral Comments:** Speaker reiterated written comments.	CDE proposes new language for this section that makes clear that all applications are submitted to the Curriculum Commission. The CDE, Subject Matter Committee and Curriculum Commission review applications for completeness. All applications, less personal information, will be available for viewing at the CDE and the SBE. There is no "screening committee." The Curriculum Commission will make recommendations to the SBE based upon the qualifications set forth in the regulations for all applications. Incomplete applications will not be "screened out," but will need to be completed prior to appointment of the applicant. No response necessary.
Christine Bertrand CSTA	**Written Comments:** **Page 4** Propose a regulation to require the Curriculum Commission to consider only the information contained in an individual application when recommending applicants to the SBE.	Sections 9511(e) and 9512(b) both state that recommendation to the SBE regarding appointments shall be made according to the qualifications listed. CDE believes that the addition of language geared at regulating people's subjective judgment or personal experiences could not be enforced.

	Oral Comments: Speaker reiterated written comments.	No response necessary.
SPEAKER	**COMMENT §9514 PROHIBITED COMMUNICATIONS**	**RESPONSE**
Dale Shimasaki AAP	**Written Comments:** **Page 5, line 17** Recommend striking provision (c), prohibiting publisher's communication with Commissioner between the date when instructional materials are delivered to IMR/CREs and the SBE takes action on the adoption. Suggest: two times designated each day during deliberations for publishers, Commissioners and panelists to engage in dialogue, answer questions, or provide clarifying information. **Oral Comments:** Speaker reiterated written comments in this section.	Commissioners should strive to communicate with publishers during open public meetings; however, CDE does not believe that the regulations should single out publishers and restrict their communications with commissioners. Therefore, the proposed regulation responds to this comment by recommending a deletion of the language contained in the original part (c). CDE does not believe that it is necessary to restrict the number of times communications can take place during open, public meetings. CDE does not recommend this change. No response necessary.
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 5** Do these provisions apply to providing draft documents developed by the various advisory entities to the public?	CDE believes the original part (a) should be deleted.

	Page 5, Lines 9 & 10 Delete (a), lines 9 & 10, or provide clarification that any documents reviewed or discussed by the CFCC should be released by CDE so the public can comment . **Oral Comments:** Speaker reiterated written comments.	CDE believes the original part (a) should be deleted. No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 5** We support this section. **Oral Comments:** Speaker reiterated written comments. Also suggested a table talk approach to allow for more communications with publishers, but in an open meeting format.	No response necessary.
Christine Bertrand CSTA	**Written Comments:** **Page 5** We support this provision. For (c), suggest that beyond disqualifying a Commissioner from further participation in the subject adoption, the Commissioner should be removed from the Commission. Recommend reasonable communication between publishers, IMRs and CRE be allowed outside the current prescribed public comment periods during deliberations.	See above comment CDE believes that the opportunity for publishers to communicate with IMRs and CREs only during public meetings is sufficient and provides for the most transparent process.

	Oral Communications: Speaker reiterated written comments.	No response necessary.
Bob Lucas BSMARTE	**Written Comments:** **Page 5, lines 17-23** Publishers should have the ability to demonstrate to members of the Curriculum Commission and the SBE how the instructional materials function in concert with teacher guides and other support materials to meet the state's standards and criteria. **Oral Comments:** Speaker reiterated written comments.	See above response related to the deletion of this part. No response necessary.
SPEAKER	**COMMENT §9515 DISPLAY OF CURRICULUM FRAMEWORKS AND EVALUATION CRITERIA FOR PUBLIC INSPECTION AND COMMENT**	**RESPONSE**
Martha Zaragoza -Diaz Californians Together	**Written Comment:** **Page 6, lines 16-20** Insert language requiring the draft curriculum and evaluation criteria be made available in Spanish. **Oral Comment:** Speaker reiterated written comments.	There is no statutory requirement that the curriculum framework and evaluation criteria be made available in Spanish. If provided the necessary funding, CDE would provide translations. However, CDE does not recommend this change without additional funding from the legislature. No response necessary.

Sherry Skelly Griffith ACSA	**Written Comment:** **Page 6, line 21** The 10 day deadline restricts public comment. Could comments be posted online and have them considered during deliberations? **Oral Comment:** Speaker reiterated written comment.	CDE proposes new language to make this section more clear. However, the deadline proposed by CDE provides the public with a date when they will be certain that their comments will reach Commissioners prior to the public meeting. The regulation in no way restricts the ability of the public to submit comments, in writing or orally, at the public meeting in which the commission adopts its recommendation. No response necessary.
Christine Bertrand CSTA	**Written Comment:** **Page 6, line 11** Augment (a) be adding "The 45 day review period shall begin on the first date that the drafts are made available on the CDE Website." **Page 6, line 21** (c) The 10 day period is a constraint on public input. One week should be sufficient. **Oral Comment:** Speaker reiterated written comment.	CDE proposes increasing the review period to 60 days and proposes new language to make clear that the drafts will be available during this entire period. See language in new part (a)(4). CDE proposes new language to make this section more clear. However, the deadline proposed by CDE provides the public with a date when they will be certain that their comments will reach Commissioners prior to the public meeting. The regulation in no way restricts the ability of the public to submit comments, in writing or orally, at the public meeting in which the commission adopts its recommendation. No response necessary.

SPEAKER	COMMENT §9516 PUBLIC HEARING HELD BY THE CURRICULUM COMMISSION AND THE SBE REGARDING CURRICULUM FRAMEWORKS AND EVALUATION CRITERIA	RESPONSE
Martha Zaragoza-Diaz Californians Together	**Written Comment:** **Page 7** What happens to public input? Input needs to be considered, debated and included in decision making. Add regulation requiring convening of more than two public hearings, conducted regionally or by video conference. Insert language specifying how, by whom, and by when public input will be reviewed and dispensed. **Oral Comment:** Speaker reiterated written comments.	CDE proposes new language in section 9515 that more clearly sets forth how public comment is received and distributed, including timelines. Sections 9511, 9512, 9513, 9515, and 9516 (new language proposed by CDE) set forth numerous public meetings conducted by the CFCC, Subject Matter Committees, Curriculum Commission and SBE. Section 9511(c) also calls for the convening of four public focus groups of educators in different regions of California. No response necessary.
Bob Lucas BSMARTE	**Written Comment:** **Page 7** Does this section refer to revisions to frameworks and criteria? This section should also apply to future revisions to the content standards. **Oral Comment:** Speaker reiterated public comment.	Yes. There is no statutory authority empowering the Curriculum Commission to revise the content standards. CDE does not recommend this change. No response necessary.

SPEAKER	COMMENT §9517 PROCEDURES FOR SUBMITTING INSTRUCTIONAL MATERIALS FOR ADOPTION	RESPONSE
Dale Shimasaki AAP	**Written Comment:** **Pages 7-11** All "musts" or "shalls" in the current regulations should be included in the proposed regulations. Each year the Invitation to Submit is created for a specific adoption. Publishers need to be aware of rules that govern the adoption process prior to the issuance of the Invitation to Submit which comes very late in the process. **Oral Comment:** Speaker reiterated written comments in this section.	CDE believes that the proposed regulations use the terms "must" and "shall" appropriately. The rules that govern the adoption process are the regulations and statutes. No response necessary.
Christine Bertrand CSTA	**Written Comment:** **Page 10, line 28** Subsection (d) is not a procedure for submitting instructional materials but is a criterion, and should therefore be eliminated from this document. **Oral Comment:** Speaker reiterated written comments in this section.	CDE believes this is a rule of general application that should be in regulation. CDE recommends no change. No response necessary.
Bob Lucas BSMARTE	**Written Comment:** **Page 10 line 28** This should be deleted. The ban on reference to other standards is not a "process" issue.	See above response.

	Oral Comment: Speaker reiterated written comment.	No response necessary.
SPEAKER	**COMMENT § 9518 SOCIAL CONTENT STANDARDS FOR ALL INSTRUCTIONAL MATERIALS ADOPTIONS**	**RESPONSE**
Martha Zaragoza-Diaz Californians Together	**Written Comment:** **Page 13** No comment.	No response necessary
Bob Lucas BSMARTE	**Written Comment:** **Page 13** The proposed sections appear to delete the appeal process currently in place for social content review. An appeals process for decisions of the Commission or the SBE related to the adoption of submitted materials is essential. **Oral Comment:** Speaker reiterated written comment.	Social content review is conducted by the IMRs and CREs under the proposed regulations. Under the proposed regulations in section 9524, an extra Curriculum Commission meeting is required. The primary purpose of the extra meeting is to receive comment from anyone who disagrees with any part of the IMR/CRE Report of Findings and to allow the Curriculum Commission time to consider these comments prior to making a recommendation to the SBE. No response necessary.
SPEAKER	**COMMENT §9519 INSTRUCTIONAL MATERIALS REVIEW PANELS AND REPORT OF FINDINGS**	**RESPONSE**
Martha Zaragoza-Diaz Californians Together	**Written Comment:** **Page 14** This section provides for a new responsibility to	IMRs and CREs do the most in depth review of the

	the IMRs and CREs to evaluation instructional materials for social content standards. Social content review should be conducted publicly and should be done by members who have received specific and appropriate training in this particular area. **Oral Comment:** Speaker reiterated written comments.	submitted materials. They are trained on the social content standards. CDE believes that they are in the best position to conduct this review and to do it in a public forum. No response necessary.
Sherry Skelly Griffith ACSA	**Written Comment:** **Page 14 -15** Concern about IMR/CREs who speak as an individual against a report or program. Language needed to clarify how and if IMR and CREs represent themselves before the Commission and SBE. **Oral Comment:** Speaker reiterated written comments.	CDE believes that any person should be allowed to address the Commission or SBE. CDE does not recommend this change. The IMR/CRE Report of Findings will speak for itself. No response necessary
Bob Lucas BSMARTE	**Written Comment:** **Page 14 line 20-22** This is a ministerial and administrative function best performed by the department. Subjecting the make-up of these panels to Commissioner approval adds a layer of subjectivity that is best left out of this process. **Oral Comment:** Speaker reiterated written comment.	CDE believes that having the Curriculum Commission approve the organization of IMRs and CREs into review panels provides transparency. CDE does not recommend this change. No response necessary.

SPEAKER	COMMENT § 9521 WRITTEN COMMENTS REGARDING CONTENT OF INSTRUCTIONAL MATERIALS	RESPONSE
Sherry Skelly Griffith ACSA	**Written Comment:** **Page 16, line 23** A 14 day comment due date seems very restrictive for the public. We suggest no more than 10 days, preferably 5. **Oral Comment:** Speaker reiterated written comments.	CDE proposes new language to make this section more clear. However, the deadline proposed by CDE provides the public with a date when they will be certain that their comments will reach the appropriate review panel prior to deliberations. The regulation in no way restricts the ability of the public to submit comments, in writing or orally, at any of the public meetings. CDE does not recommend this change. No response necessary
Christine Bertrand CSTA	**Written Comment:** **Page 16, line 23** Fourteen days is an unreasonably restrictive time period for public comments and suggest one week prior to the deliberations date. **Oral Comment:** Speaker reiterated written comment.	See response above. No response necessary.
Christine Bertrand CSTA	**Written Comment:** **Page 17, line 4** (e)“evaluate written comments that were received” is unclear. We suggest “IMRs and CREs shall take into consideration all public comment	CDE proposes new language to make this section more clear. However, specifically stating that the IMRs and CREs shall take into consideration public comment

	received when making a recommendation." If not changed, we suggest eliminating this subsection **Oral Comment:** Speaker reiterated written comment.	would be unenforceable. The regulation as proposed by CDE makes the comments available to the IMRs and CREs prior to deliberations in order to give the IMRs and CREs more time to consider the comments. No response necessary.
Bob Lucas BSMARTE	**Written Comment:** **Page 16-17** As drafted this section only anticipates negative comments. We suggest broadening the language to also anticipate positive comments. **Oral Comments:** Speaker reiterated written comment.	CDE concurs with this comment and proposes new language in part (a). No response necessary.
SPEAKER	**COMMENT §9522 PRESENTATION OF PUBLIC TESTIMONY**	**RESPONSE**
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 17, lines 23-27** This section is limited to oral comments and is limited to just one public hearing. One public hearing is not sufficient. Add language or a new regulation that requires the convening of public hearing or focus hearing on a regional basis and/or via video conferencing. **Oral Comments:** Speaker reiterated written comments.	This regulation only concerns how to deal with allotting time to speakers during public meetings. It does not limit the number of public meetings. CDE does not recommend this change. No response necessary.
Bob Lucas BSMARTE	**Written Comments:** **Page 17** This is very restrictive, especially in view of the	CDE believes that the proposed regulation is consistent

	proposed section 9514, prohibited communications. **<u>Oral Comments:</u>** Proposal limits public participation to two minutes during a public meeting. Insufficient time.	with Government Code section 11125.7 and is intended only as a means of organizing oral comments in a way that will give everyone an opportunity to speak. The regulation in no way prevents a person from submitting written comments. No response necessary.
SPEAKER	**COMMENT §9523 DISPLAY OF INSTRUCTIONAL MATERIALS FOR PUBLIC INSPECTION**	**RESPONSE**
Wendy B. Leece	**<u>Written Comments:</u>** **<u>Page 18, lines 6-14</u>** Suggest the addition of language in sections (a) and (b). **<u>(a) line 7</u>** following "publisher shall send" add "*four sample copies of the student and teacher components of*." **<u>(a) line 10</u>**, following "the SBE adopts instructional materials" add this sentence "*Publishers of internet-based instructional content submitted for review shall provide the LRDCs with appropriate information, such as locator information and password, required to ensure public access to their programs throughout the display period."* **<u>(b) line 12</u>**, add the following sentence "*Three of the four samples filed by publishers at each LRDC*	LRDCs are voluntary and are not funded by the state. Therefore, they often have limited space and personnel. CDE does not recommend this change. See above response. Also, not all LRDCs have internet access. CDE does not recommend this change. See above responses. Also, since LRDCs participate on a volunteer basis, they do not always have the space or

	shall be made available to be checked out according to rules established by each LRDC based on demand. Appropriate information, such as locator information and passwords, shall be made available by the LRDCs to ensure public access to internet-based instructional content throughout the display period." **Oral Comments:** Speaker reiterated written comments on this section.	staffing that would be required to allow materials to be checked out. No response necessary.
Christine Bertrand CSTA	**Written Comments:** **Page 18** There should be a time frame specified in the regulations for the minimum amount of time materials must be on display at LRDCs. **Oral Comments:** No oral comment on this issue.	Parts (a), (b) and (c) do specify timeframes. No response necessary.
SPEAKER	**COMMENT §9524 PUBLIC HEARING HELD BY THE CURRICULUM COMMISSION AND THE STATE BORAD OF EDUCATION REGARDING INSTRUCTIONAL MATERIALS**	**RESPONSE**
Dale Shimasaki AAP	**Written Comments:** **Pages 18 & 19** Delete proposed section and make the following changes: **Edits and corrections** should be conducted by the subject matter committee in a public session.	Edits and corrections are ultimately adopted by the SBE. The regulations allow for the review panels and the

		Curriculum Commission to recommend edits and corrections, but ultimately the SBE makes the determination. CDE does not recommend this change.
	-Set a designated time for each publisher to review edits and corrections citations -Conduct the review 30 days after deliberations	The regulation requires at least two Curriculum Commission meetings held at least 30 days apart prior to the Curriculum Commission recommending instructional materials to the SBE. The primary purpose of the first Curriculum Commission meeting is to allow people to challenge findings in the IMR/CRE Report of Findings. See new language in part (a)(1). CDE does not recommend this change.
	Legal and Social Compliance Reflect current practice. Involving legal and social compliance in the deliberations process means reviewers have less time to devote to other aspects of the adoption process.	CDE believes that IMRs and CREs are in the best position to review instructional materials for compliance with the social content standards as they review each page of the materials and will also be trained to do so. Additionally, they have been performing this function in recent adoptions. CDE does not recommend a change.
	Appeals Process Appeals for a submission in dispute should be conducted by a smaller panel consisting of: - Chair of the commission - Chair of the SMC - Member of SBE - Executive Director SBE - CRE panelist who has not previously reviewed the program Limit review to specific items in conflict in the	The regulation requires at least two Curriculum Commission meetings held at least 30 days apart prior to the Curriculum Commission recommending instructional materials to the SBE. The primary purpose of the first Curriculum Commission meeting is to allow people to challenge findings in the IMR/CRE Report of Findings and to do so before the entire Curriculum Commission. CDE does not believe that having a smaller panel of people make a recommendation to the Curriculum

	IMR/CRE report Conduct appeal 45 days after conclusion of deliberations. Forward recommendation to full commission 60 days after deliberations. **Oral Comments:** Speaker reiterated written comments for this section.	Commission would be time effective. CDE does not recommend this change. No response necessary.
Martha Zaragoza-Diaz Californians Together	**Written Comments:** **Page 18** Previous recommendations for 9516 and 9522 apply here. **Oral Comments:** Speaker reiterated written comments.	See responses for 9516 and 9522 above. No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 19, line 4** We support the requirement that the Commission may include recommendations that differ from the review panels, but the Commission is prohibited from altering the recommendations of the panels.	The findings of the review panels are compiled into a document called the IMR/CRE Report of Findings. The IMR/CRE Report of Findings is separate from the Curriculum Commission Advisory Report. CDE proposes a more detailed description of this process in revised sections 9519 and 9524. The idea is to preserve the reports of the review panels and the curriculum commission so the SBE will have as much information as possible to make informed decisions.

	Oral Comments: Speaker reiterated written comments.	No response necessary.
Susan Mogull Institute for Curriculum Services (ICS)	**Written Comments:** **Page 18, line 24 (25)** We recommend inserting "nor less than 21 days" after "(1) Not more than 30 days" **Page 18, line 30 (33)** We recommend inserting "nor less than 21 days" after "(1) Not more than 30 days We would also like to clarify who prepares the edits and corrections in this process. Need to clarify who prepares edits and corrections. **Oral Comments:** Speaker reiterated written comments.	CDE believes that this meeting should take place as soon as possible to allow publishers and others to quickly dispute findings of the review panels. CDE does not recommend this change. CDE proposes changing the timeline to not less than 30 days in part (a)(3). Edits and Corrections are first recommended by the review panels and complied into the IMR/CRE Report of Findings by CDE staff (section 9519). No response necessary.
Christine Bertrand CSTA	**Written Comments:** **Page 19, line 4** (a)(4) should specifically require that the IMR/CRE Reports of Findings be forwarded as written to the SBE along with Commission Report. Currently, the subsection indicates that the Commission may add to the report, although it may not delete or alter the recommendations. SBE should see the unedited IMR/CRE Reports	CDE concurs with this comment. The findings of the review panels are compiled into a document called the IMR/CRE Report of Findings. The IMR/CRE Report of Findings is separate from the Curriculum Commission Advisory Report. CDE proposes a more detailed description of this process in revised sections 9519 and 9524. The idea is to preserve the reports of the review panels and the curriculum commission so the SBE will have as much information as possible to make informed decisions.

Bob Lucas BSMARTE	**<u>Pages 18-19</u>** This is the heart of the process. The Commission might disagree with the review panel of the SMC and it is likely adopting a viewpoint that is different from that of the individuals who actually reviewed the materials. The process should provide opportunity for all parties, including the staff, to submit information to the SBE for its consideration before its action and during an appeal. **<u>Oral Comments:</u>** Speaker reiterated written comments.	CDE concurs with this statement and believes the proposed regulations allow for this. No response necessary.
SPEAKER	**COMMENT § 9525 POST ADOPTION EDITS AND CORRECTIONS PROCEDURES**	**RESPONSE**
Dale Shimasaki AAP	**<u>Written Comments:</u>** **<u>Page 19, lines 15-20</u>** Recommend amendment to (b) Line 21 insert "*or is not necessary"* After "corrections have been **made**…" **<u>Oral Comments:</u>** Speaker reiterated written comments in this section.	These are post adoption activities. All edits and corrections at this point have been adopted by the SBE and must be made. The time to challenge the edits and corrections has passed, and if a publisher does not want to make the change they will need to seek the SBE's approval. CDE does not recommend this change. No response necessary.
Wendy B. Leece	**<u>Written Comments:</u>** **<u>Page 19, line 26</u>** Add "*(d) Penalty not to exceed $5,000 may be assessed for each factual error identified after the deadline established in the schedule of significant*	There is no statutory authority to assess this fine. CDE does not recommend this change.

	events by which publishers must have submitted final printed resources. The publisher shall provide an errata sheet approved by the CDE with each teacher component of an adopted title." **Oral Comments:** Speaker provided a handout produced in Texas entitled *427 Factual Errors*. Speaker indicated she spent 10 hours reviewing 5 textbooks at her local LRDC and verified that the errors are in the textbooks currently being used in the classroom. Speaker read a letter of support from State Senator Tom Harmon.	No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 19, line 21** At the end of line 21 add the following amendment: "*These meetings shall be open to the public and shall be posted 10 days prior to the scheduled meeting."* **Oral Comments:** Speaker reiterated written comment.	The edits and corrections that these meetings are intended to address have been adopted by the SBE in open, public meetings. These post adoption meetings are administrative in nature and do not need to be public. If a publisher does not want to make an adopted edit or correction they will need to seek the SBE's approval, which would be an open, public process. No response necessary.
SPEAKER	**COMMENT §9527 FREE OR GRATIS ITEMS**	**RESPONSE**
Dale Shimasaki AAP	**Written Comments:** Concern that the proposal is too restrictive. Items	CDE concurs that the statute concerning free

	often developed at request of school districts (e.g. pacing guides) and these would be prohibited under the proposal. Would like to discuss an alternative. Recommend deleting this provision. **Oral Comments:** Speaker reiterated written comments in this section.	instructional materials does not restrict free instructional materials to adopted instructional materials, and therefore, proposes new language for section 9527. No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 20, line 9,10** Add to (a) after "instructional materials" *"and ancillary components"* To line 10 add " county " and "middle" **Page 20, lines 11-12** At end of line 11 add "*Publisher shall not offer or deliver the gratis item(s) until receiving notice from CDE in writing that the items are approved for the list."* **Page 20, lines 13-17** Strongly support this provision. **Oral Comments:** Speaker reiterated written comments. Supports the website and 30 days notice provision.	CDE proposes changes to this section. The new language tracks the language of the statute. CDE does not recommend this change. CDE does not believe this restriction is necessary given the language of the statute. CDE does not recommend this change. No response necessary. No response necessary.
Christine Bertrand CSTA	**Written Comments:** **Page 20, lines 9-17** We are unclear as to why only adopted materials may be given by a publisher to school districts. What is the authorizing statute that would prohibit	CDE concurs that the statute concerning free instructional materials does not restrict free instructional materials to adopted instructional materials, and

	a publisher from giving, or a school district from accepting, any materials it wishes as long as state funds are not being used, assuming the same offer is made to all districts? **Oral Comments:** Speaker reiterated written comments.	therefore, proposes new language for section 9527. No response necessary.
SPEAKER	**COMMENT §9528 ALTERNATE FORMATS OF ADOPTED INSTRUCTIONAL MATERIALS**	**RESPONSE**
Dale Shimasaki AAP	**Written Comments:** **Page 21, lines 24-25** Do not include in regulations. Some alternate formats are more costly to produce than others, e.g. Spanish versions, different bindings. This provision discourage publishers from offering alternate forms **Oral Comments:** No comment on this section.	CDE concurs and proposes deleting part (d). No response necessary.
Sherry Skelly Griffith ACSA	**Written Comments:** **Page 21, lines 9-25** If feasible, CDE should be authorized to charge a fee for the extensive reviews necessary for ensuring identical content in alternate formats submitted after adoption. **Oral Comments:** Speaker reiterated written comments.	There is no statutory authority to charge a fee. No response necessary.

SPEAKER	COMMENTS § 9529 EDITIONS OF ADOPTED INSTRUCTIONAL MATERIALS	RESPONSE
Sherry Skelly Griffith ACSA	**Written Comment:** **Page 22, after line 20** Add *"(3) Local education agencies shall be informed by the publisher or their representative that there is no requirement to purchase a new edition or replace the current edition. Local Education agencies shall also be informed that no additional content is included in the new edition and that the price is equal or lower than the price of the original adopted edition."* **Oral Comment:** Speaker reiterated the written comment in this section.	CDE does not believe that there is statutory authority to require a publisher to do this. Additionally, the list of adopted instructional materials will not change. No response necessary.
SPEAKER	**COMMENTS § 9530 SCHOOL DISTRICT ORDERING OF INSTRUCTIONAL MATERIALS**	**RESPONSE**
Sherry Skelly Griffith ACSA	**Written Comment:** **Page 24, lines 5-13** Unclear why this was deleted. It protects school districts when a publisher delivers wrong materials. Provides a remedy. With this section deleted, the protection is eliminated.	CDE believes that part (d) provides protection and a remedy to districts.
SPEAKER	**GENERAL COMMENTS**	**RESPONSE**
Christine Bertrand CSTA	**Written Comments:** Inconsistency of process among review panels during deliberations needs to be addressed	CDE believes that this is a matter better addressed by training than by regulation.

	Suggestion: have CDE staff serve as facilitators. CDE Staff does not respond to questions from publishers and the public in a timely manner. A reasonable timeline for response should be established. **Oral Comments:** Speaker reiterated written comments.	CDE believes the proposed regulations set out clear timelines. No response necessary.
Martha Zaragoza- Diaz Californians Together	**Written Comments:** Three general comments: 1) Proposed regulations do not provide for sufficient stakeholder or public input. Proposed regulations do not differ from current regulations on this point. 2) Current process is too complex for public, especially parents, to understand and participate in. 3) Process of public comment requires specificity. Generally, adoption process does not provide opportunities for public input on major policy decisions. Such discussion needs to take place before the development of a framework or evaluation criteria. **Oral Comments:** The Speaker reiterated the written comments.	CDE believes that the proposed regulations contain many changes that clearly spell out how the public can provide input during the process. CDE agrees that the adoption process is complex. This is due in large part to statutory requirements that cannot be changed by the regulations. However, CDE also believes that the proposed regulations clearly set forth the process. CDE believes that the regulations are specific. CDE believes that new language proposed in section 9511 addresses this comment. No response necessary

Sherry Skelly Griffith ACSA	**Oral Comment:** The regulations do not provide any direction on standards maps and some direction is needed.	CDE concurs and proposes new language in section 9517.
Bob Lucas BSMARTE	**Oral Comment:** Time allowed publishers during deliberations in inadequate to give reviewers adequate information about the program. Appeals process should be included and formalized.	The proposed regulations allow for publishers to address review panel members during public meetings as well. CDE believes that the additional Curriculum Commission meeting described in section 9524 satisfies this concern.

ITEM #~~_____~~#19

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CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
American Indian Education Center Program – Adoption of Proposed Title 5 Regulations Section 11996-11996.11.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

~~The California Department of Education (CDE) recommends that the State Board of Education (SBE):~~

- ~~Consider comments received during the public comment periods and at the public hearing;~~
- ~~Adopt the proposed regulations, and~~
- ~~Direct CDE staff to submit the rulemaking file to the Office of Administrative Law for approval.~~The 45 day public comment period has not ended. CDE's recommendation will be provided as an item addendum.

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SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 1975 the SBE approved guidelines for the administration of the American Indian Education Center (AIEC) program. These guidelines have not been revisited since their adoption, and need to be updated to meet the requirements of Senate Bill (SB) 1710 of 2006.

In May 2007 the SBE approved the Finding of Emergency and directed staff to begin the Rulemaking process.

SUMMARY OF KEY ISSUES

The AIEC program was established in 1974 by SB 2264. Since that time the administration of the program has been guided by the 1975 SBE approved guidelines. The law that governs the AIEC program has changed since the adoption of these guidelines.

The AIEC program was scheduled to sunset in January 2007 and was reauthorized by SB 1710 of 2006. SB 1710 requires the SBE, upon the advice and recommendations of the State Superintendent of Public Instruction (SSPI), to adopt new guidelines for the selection and administration of California AIECs. SB 1710 also established the American Indian Education Oversight Committee (AIEOC) and charged it with providing input and advice to the SSPI on all aspects of American Indian Education programs established by the state. The CDE and the AIEOC worked together to develop the proposed regulations, which the AIEOC approved on

March 5, 2007. The AIEOC has also approved the Finding of Emergency, which is necessary because the current funding for AIECs will expire before permanent regulations can be adopted.

The purpose of the regulations is to establish a transparent process for the selection and administration of AIECs funded by the CDE.

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SUMMARY OF KEY ISSUES (Cont.)

More specifically, the proposed regulations define a grant application process for the AIECs, establish annual reporting requirements for grant recipients, and define fiscal and program monitoring requirements.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE reviewed the proposed regulations and determined that there are no additional costs associated with them.

ATTACHMENT(S)

Attachment 1: Title 5. EDUCATION (8 Pages)
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 24. American Indian Education Centers
Article 1. General Provisions

Attachment 2: Final Statement of Reasons will be submitted as an item addendum

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Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 24. American Indian Education Centers

Article 1. General Provisions

§ 11996. Purpose.

These regulations set forth guidelines for the selection and administration of California American Indian Education Centers.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.1. Definitions.

For purposes of the American Indian Education Center program, the following definitions shall apply:

(a) "Adult" means a person over the age of 18, residing in California, and who does not attend public school in California in kindergarten or grades 1 through 12, inclusive.

(b) "AIEC" means American Indian Education Center.

(c) "AIEOC" means American Indian Education Oversight Committee.

(d) "CDE" means California Department of Education.

(e) "Existing Center" means a center that is funded under Education Code sections 33370-33383 in the most recently funded year prior to or including the year that a new AIEC Request For Applications from CDE is released.

(f) "Grant year" means the period from October 1 through September 30 of the subsequent year.

(g) "Guardian" means a person who is not the mother or father but who has custody of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(h) "Incorporated American Indian Associations" means a California American Indian governed community-based organization that has received and maintains its non-profit status from the federal government and has current articles of incorporation on file with the state of California. It also means any tribally incorporated non-profit that either maintains separate non-profit status with the federal government or uses the incorporating tribal federal designation (P.L. 93-638).

(i) “Parent” means the mother or father of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(j) “Priority” means that an existing center shall receive funding as long as the center submits an application that meets the minimum criteria for funding and the center has completed and submitted all required reports for the current funding cycle.

(k) “Pupil” means an American Indian boy or girl who is enrolled in, and attends school in California in kindergarten or grades 1 through 12, inclusive.

(l) “RFA” means Request for Application.

(m) “SSPI” means the State Superintendent of Public Instruction.

(n) “Service” means activities provided to promote the academic and cultural achievement of American Indian pupils as defined in Education Code section 33381.

(o) “Tribal Group” means any federally recognized tribal government including terminated California tribes.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.2. American Indian Education Oversight Committee.

(a) The purpose of the AIEOC is to provide input and advice to the SSPI on all aspects of American Indian education programs established by the state. Members of the AIEOC shall possess proven knowledge of current educational policies relating to, and issues faced by, tribes and American Indian communities in California.

(b) The AIEOC members shall serve at the pleasure of the SSPI.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

§ 11996.3. Grant Application.

(a) For each five year funding cycle, the CDE shall release a competitive American Indian Education grant application no later than July 15. Tribal Groups or Incorporated American Indian Associations wishing to receive funds from CDE’s AIEC grant program shall submit to CDE an application proposing projects responding to all requirements of law and these regulations. Original applications for 2007-08 grant year must be received by CDE 42 days from the release date of the application. All subsequent applications must be received at CDE 60 days from the release date of the application. Applications shall contain the following:

(1) Organizational chart of AIEC funded program and staff and the relationship to parent

organization;

(2) Agency description and service location(s):

(3) History of cultural and educational service to the American Indian community;

(4) Demonstrated organizational capability and commitment to manage grants;

(5) Demographic profile of the proposed AIEC service area;

(6) Description of the target population including tribe (if applicable), school, community;

(7) The results of a "Comprehensive Needs Assessment," which must include:

(A) the number of American Indian pupils enrolled at each school site, their grade levels, school or Local Education Agency's state academic performance measures for the American Indian sub-group, and free and reduced lunch count;

(B) the number of pupils to be directly served; and

(C) the needs and concerns identified by community members, collaborative partners, school staff, parents/guardians and pupils

(8) A comprehensive plan that includes:

(A) Measurable outcome objectives to meet identified needs by service category listed in Education Code section 33381.

(B) For each activity proposed to achieve the objectives stated above, applicants will provide the following:

1. description of activity;

2. total number of American Indian pupils served;

3. total number of others served;

4. number of American Indian pupils in each activity session;

5. number of others in each activity session;

6. number of hours per session; and

7. number of scheduled sessions.

(C) An implementation timeline for activities; and,

(D) A description of the manner in which culturally responsive methodologies will be incorporated into program services.

(9) Documentation of, and plans for, continuing coordination and collaboration with local school districts, local tribes, other community organizations and resources.

(10) Signed CDE - General Assurances (February 2007), Documentation Requirements Certification (May 2007), Certification Regarding State and Federal Drug-Free Workplace Requirements (August 2005), and Commercial Tobacco-Free Certification Tobacco-Use Prevention Education (May 2007), incorporated by reference.

(11) An annual budget, including narrative.

(12) The narrative for an AIEC grant application must be limited to 20 single-sided, 8-1/2 by 11 inch pages using 12 pt Arial font, with 1 inch margins.

(b) Applications shall be disqualified from consideration if they do not:

(1) Include all required sections of the proposal;

(2) Include the original signature of the Board Chairperson, Tribal Chairperson or authorized representative;

(3) Comply with the requirement that proposals be received by CDE by the due dates specified in the RFA.

(c) For each year after year one of the five-year funding cycle, agencies shall submit to CDE a continuing application that contains the following:

(1) Degree to which the objectives were met; modifications to the objectives, activities, target population, and/or implementation timeline.

(2) An annual budget including narrative.

(3) Signed CDE - General Assurances (February 2007), Documentation Requirements Certification (May 2007), Certification Regarding State and Federal Drug-Free Workplace Requirements (August 2005), and Commercial Tobacco-Free Certification Tobacco-Use Prevention Education (May 2007), incorporated by reference.

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370, 33381, 33383 and 62000.14 Education Code.

§ 11996.4. Selection of Applications for Grant Awards.

(a) Each complete application that meets the deadline for submission shall be reviewed by a panel of reviewers selected by CDE. The CDE shall establish criteria for selection of the reviewers and train the reviewers to score grant applications consistently.

(b) Applications shall be reviewed and assessed according to the degree to which the application fulfills the requirements of applicable statutes and these regulations, including:

(1) The extent to which the application is designed to promote the culture and the academic achievement of American Indian pupils as demonstrated by the alignment between identified needs and the proposed program.

(2) The extent to which the application is designed to achieve measurable outcomes that address the needs identified in the comprehensive needs assessment.

(3) The extent to which the applicant's actual and/or proposed organization structure, history of service to the American Indian community, and demonstrated organizational capacity are indicative of the ability to assure successful program implementation.

(4) The type and intensity of services to be provided to the targeted population, and the number of pupils and other participants to be served.

(5) The potential impact of the proposed service plan on pupils, their families, and other organizations in the region as evidenced by the implementation of promising practices or proven strategies.

(6) The completeness of the description of the proposed service area, including the identification of currently existing services and service deficits.

(7) The degree to which the AIEC will collaborate with the existing service-agencies as evidenced by collaborative agreements that clearly detail the responsibility of collaborating entities.

(c) All applications will be ranked according to their assessed score. Grants will be awarded on the basis of the applicant's rank and the applicant's funding priority as defined in section 11996.1(j).

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370 and 33383, Education Code.

§ 11996.5. Grant Recipient Funding.

(a) The CDE shall determine the amount of grant funds awarded to each grant recipient based upon an analysis of the recipient's application for funds. The factors considered in the analysis shall include, but shall not be limited to, the following:

(1) The comprehensive needs assessment included in the application.

(2) The scope of the project including the activities described in the applicant's comprehensive plan and the type and intensity of services proposed for the program's major activities.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.6. Appeals of Grant Awards.

Applicants who wish to appeal a grant award decision shall submit a written appeal to the CDE within five working days of the posted decision for grant year 2007-08 and within seven working days in subsequent years. Appeals shall be limited to the grounds that the CDE failed

to correctly apply the standards for reviewing the applications or the grant award process as specified in the regulations. The appealing applicant shall file a full and complete written appeal, including the issue(s) in dispute, the legal authority or other basis for the appeal position, and the remedy sought. CDE shall not consider incomplete appeals, late appeals or appeals that only refute the readers' comments given for technical assistance.

Any decision to revise the original score or fund the application shall be documented in writing. The CDE's decision is the final administrative action afforded the appeal.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.7. Reporting Requirements.

(a) Each grant recipient shall provide an annual report to the CDE. The report shall be due 60 days from the end of the grant period, and shall contain the following information:

(1) number of pupils enrolled by grade level or age;

(2) number of pupils served by grade level or age and service type and frequency;

(3) a description of how the center meets the continued educational and cultural needs of the community that it serves;

(4) a description of the collaborative activities conducted during the year;

(5) progress made in meeting its stated objectives, including applicable program objectives as stated in Education Code section 33381;

(6) AIEC program enrolled pupil aggregated performance on state academic assessment measures;

(7) recommendations for revisions to the project and its budget based upon an analysis of the data by the grant recipient.

(b) Each grant recipient shall submit annually a report containing the results of an independent fiscal audit of expenditures. This report is due on November 1. A one time 60 day extension shall be granted if a request for the extension is made prior to November 1 and demonstrates good cause for such an extension. Grant funds may be used to pay for the preparation of these reports.

(c) The AIEC's shall submit quarterly fiscal expenditure reports. The expenditure reports shall be received by the CDE within six weeks of the end of each quarter. The reports shall be signed by the AIEC accounting officer, and will have two components:

(1) an AIEC summary report by CDE budget line item,

(2) a general ledger which shows the quarter's expenditures in detail.

(d) Failure to submit the annual report, quarterly fiscal reports, or results of the fiscal audit of expenditures by the due dates will result in a delay of the second payment for the current year and all payments for subsequent grant years until the reports are submitted.
NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370 and 62000.14, Education Code.

§ 11996.8. Fiscal and Program Monitoring.

(a) The reports received from the AIEC shall be received by the posted due dates and shall be assessed for completeness, accuracy; for use of funds as authorized in law and regulation; and for use of funds as described in the application of the AIEC. The AIEC shall correct any omissions or inaccuracies in the reports and correct any unauthorized expenditures by charging the unauthorized expenditure to a non-AIEC grant fund source.

(b) Program monitoring shall be conducted through CDE review of quarterly and annual reports, written communication, and on site reviews. When problems in implementing program services or achieving program objectives are encountered, the CDE shall schedule meetings, site visits, and/or phone calls to provide training and/or technical assistance to the grant recipient.

(c) The CDE shall provide the AIEC with a written report of any findings, including recommendations, corrective actions and a timeline for the corrective actions, if necessary.

(d) If the CDE determines that the AIEC has not met the terms of the approved application or the law or these regulations, then the AIEC shall be notified by certified mail of any such failure to comply with the terms of the application, laws or regulations. This notice shall specify the time line for corrective action. After issuance of the notice the CDE has the option to amend the time line for corrective action. If the grant recipient does not take action to bring the program into compliance, the CDE shall terminate program funding.
NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

§ 11996.9. Grant Amount Revisions.

(a) The CDE may reduce grant amounts based on the following conditions:

(1) An across the board reduction will be made in the event of an allocation reduction in the state budget. Each AIEC's grant amount will be reduced proportionately to the reduction in the Budget Act.

(2) If any services budgeted in an AIEC's application or approved budget revision are not

provided within the grant year or first quarter of the subsequent grant year and if a grant extension is not provided pursuant to section 11996.10, the CDE shall reduce the grant award to the AIEC accordingly.

(b) If for any reason grant funding awarded to an AIEC is returned to CDE or never allocated to an AIEC, the AIEOC shall provide input and advice to the SSPI on the use of the funds. Options for use of the funds shall include, but are not limited to, proportional allocation to existing grantees and allocation via competitive application.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.10. Grant Extension.

No later than June 30 of the grant year, the CDE will determine if extensions for the use of grant funds will be made available for use in the first quarter of the subsequent grant year. Funds from a grant year must be used to provide services in the first quarter of the subsequent grant year. The center must submit to the CDE a plan and line-item budget for use of the funds in the subsequent grant year. The plan must demonstrate that the funds would be used to provide supplemental services which would not otherwise be funded from the grant funds of the new year.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33383, Education Code.

§ 11996.11. Budget Application Revisions.

(a) Project budget revisions of more than 10 percent of the line item shall be approved in writing by the CDE prior to implementation. Expenditures for any grant, activity, or type of equipment not listed in the application budget or approved revision must be approved in advance by CDE.

(b) Revisions to an approved application may be submitted anytime during the annual grant period, so long as the revision is approved prior to implementation of the revision.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

3-26-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 10, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 19

SUBJECT: American Indian Education Center Program – Adoption of Proposed Title 5 Regulations 11996-11996.11.

In May 2007, the State Board of Education (SBE) approved the Finding of Emergency and proposed emergency regulations, the Notice of Proposed Rulemaking and the Initial Statement of Reasons to commence the regulatory process for amendments proposed to the Title 5 regulations for the American Indian Education Center (AIEC) Program. The 45-day comment period commenced on May 25, 2007, and concluded at 5:00 p.m., on July 9, 2007.

The comments received during the 45-day public comment period pertained to support of the AIEC Program and adjusting the due dates of the Audit of Expenditures. The CDE also recommends an amendment to sections 11996.9 Grant Amount Revisions.

A summary of all the comments received is presented in the Final Statement of Reasons (Attachment 3).

Based on these comments, the California Department of Education (CDE) recommends that the SBE take the following actions:

- Amend the proposed regulations to reflect the changes made as a result of comments received during the 45-day comment period and additional CDE recommended amendments;

- 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 for approval; and

- 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 with changes on the SBE's September 2007 agenda for action.

Attachment 1: Title 5. EDUCATION (10 Pages)
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 24. American Indian Education Centers
Article 1. General Provisions

Attachment 2: Final Statement of Reasons (3 Pages)

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 24. American Indian Education Centers

Article 1. General Provisions

§ 11996. Purpose.

These regulations set forth guidelines for the selection and administration of California American Indian Education Centers.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.1. Definitions.

For purposes of the American Indian Education Center program, the following definitions shall apply:

(a) "Adult" means a person over the age of 18, residing in California, and who does not attend public school in California in kindergarten or grades 1 through 12, inclusive.

(b) "AIEC" means American Indian Education Center.

(c) "AIEOC" means American Indian Education Oversight Committee.

(d) "CDE" means California Department of Education.

(e) "Existing Center" means a center that is funded under Education Code ~~(EC)~~ sections 33370-33383 in the most recently funded year prior to or including the year that a new AIEC Request For Applications from CDE is released.

(f) "Grant year" means the period from October 1 through September 30 of the subsequent year.

(g) "Guardian" means a person who is not the mother or father but who has custody of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(h) "Incorporated American Indian Associations" means a California American Indian governed community-based organization that has received and maintains its non-profit status from the federal government and has current articles of incorporation on file with the state of California. It also means any tribally incorporated non-profit that

either maintains separate non-profit status with the federal government or uses the incorporating tribal federal designation (P.L. 93-638).

(i) “Parent” means the mother or father of an American Indian pupil who is enrolled in, and attends public school in California in kindergarten or grades 1 through 12, inclusive.

(j) “Priority” means that an existing center shall receive funding as long as the center submits an application that meets the minimum criteria for funding and the center has completed and submitted all required reports for the current funding cycle.

(k) “Pupil” means an American Indian boy or girl who is enrolled in, and attends school in California in kindergarten or grades 1 through 12, inclusive.

(l) “RFA” means Request for Application.

(m) “SSPI” means the State Superintendent of Public Instruction.

(n) “Service” means activities provided to promote the academic and cultural achievement of American Indian pupils as defined in EC section 33381.

(o) “Tribal Group” means any federally recognized tribal government including terminated California tribes.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.2. American Indian Education Oversight Committee.

(a) The purpose of the AIEOC is to provide input and advice to the SSPI on all aspects of American Indian education programs established by the state. Members of the AIEOC shall possess proven knowledge of current educational policies relating to, and issues faced by, tribes and American Indian communities in California.

(b) The AIEOC members shall serve at the pleasure of the SSPI.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

§ 11996.3. Grant Application.

(a) For each five year funding cycle, the CDE shall release a competitive American Indian Education grant application. Tribal Groups or Incorporated American Indian

Associations wishing to receive funds from CDE's AIEC grant program shall submit to CDE an application proposing projects responding to all requirements of law and these regulations. Original applications for 2007-08 grant year must be received by CDE 42 days from the release date of the application. All subsequent applications must be received at CDE 60 days from the release date of the application. Applications shall contain the following:

(1) Organizational chart of AIEC funded program and staff and the relationship to parent organization**;**

(2) Agency description and service location(s):

(3) History of cultural and educational service to the American Indian community;

(4) Demonstrated organizational capability and commitment to manage grants;

(5) Demographic profile of the proposed AIEC service area;

(6) Description of the target population including tribe (if applicable), school, community;

(7) The results of a "Comprehensive Needs Assessment," which must include:

(A) the number of American Indian pupils enrolled at each school site, their grade levels, school or Local Education Agency's state academic performance measures for the American Indian sub-group, and free and reduced lunch count;

(B) the number of pupils to be directly served; and

(C) the needs and concerns identified by community members, collaborative partners, school staff, parents/guardians and pupils

(8) A comprehensive plan that includes:

(A) Measurable outcome objectives to meet identified needs by service category listed in **Education Code** ~~EC~~ section 33381.

(B) For each activity proposed to achieve the objectives stated above, applicants will provide the following:

(i) ~~**1.**~~ description of activity;

(ii) ~~**2.**~~ total number of American Indian pupils served;

(iii) ~~**3.**~~ total number of others served;

(iv) ~~**4.**~~ number of American Indian pupils in each activity session;

(v) ~~**5.**~~ number of others in each activity session;

(vi) ~~**6.**~~ number of hours per session; and

(vii) ~~**7.**~~ number of scheduled sessions.

(C) An implementation timeline for activities; and,

(D) A description of the manner in which culturally responsive methodologies will be incorporated into program services.

(9) Documentation of, and plans for, continuing coordination and collaboration with local school districts, local tribes, other community organizations and resources.

(10) Signed CDE - General Assurances (**February 2007** ~~**revised 2/07**~~), Documentation Requirements Certification (**May 2007** ~~**issued 12/05**~~), Certification Regarding State and Federal Drug-Free Workplace Requirements (**August 2005** ~~**revised 8/05**~~), and **Commercial** Tobacco-Free Certification **Tobacco-Use Prevention Education** (**May 2007** ~~**revised 5/07**~~), incorporated by reference.

(11) An annual budget, including narrative.

(12) The narrative for an AIEC grant application must be limited to 20 single-sided, 8-1/2 by 11 inch pages using 12 pt Arial font, with 1 inch margins.

(b) Applications shall be disqualified from consideration if they do not:

(1) Include all required sections of the proposal;

(2) Include the original signature of the Board Chairperson, Tribal Chairperson or authorized representative;

(3) Comply with the requirement that proposals be received by CDE by the due dates specified in the RFA.

(c) For each year after year one of the five-year funding cycle, agencies shall submit to CDE a continuing application that contains the following:

(1) Degree to which the objectives were met; modifications to the objectives, activities, target population, and/or implementation timeline.

(2) An annual budget including narrative.

(3) Signed CDE - General Assurances (**February 2007** ~~**revised 2/07**~~), Documentation Requirements Certification (**May 2007** ~~**issued 12/05**~~), Certification Regarding State and Federal Drug-Free Workplace Requirements (**August 2005** ~~**revised 8/05**~~), and **Commercial** Tobacco-Free Certification **Tobacco-Use Prevention Education** (**May 2007** ~~**revised 5/07**~~), incorporated by reference.

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370, 33381, 33383 and 62000.14, Education Code.

§ 11996.4. Selection of Applications for Grant Awards.

(a) Each complete application that meets the deadline for submission shall be reviewed by a panel of reviewers selected by CDE. The CDE shall establish criteria for selection of the reviewers and train the reviewers to score grant applications consistently.

(b) Applications shall be reviewed and assessed according to the degree to which the application fulfills the requirements of applicable statutes and these regulations, including:

(1) The extent to which the application is designed to promote the culture and the academic achievement of American Indian pupils as demonstrated by the alignment between identified needs and the proposed program.

(2) The extent to which the application is designed to achieve measurable outcomes that address the needs identified in the comprehensive needs assessment.

(3) The extent to which the applicant's actual and/or proposed organization structure, history of service to the American Indian community, and demonstrated organizational capacity are indicative of the ability to assure successful program implementation.

(4) The type and intensity of services to be provided to the targeted population, and the number of pupils and other participants to be served.

(5) The potential impact of the proposed service plan on pupils, their families, and other organizations in the region as evidenced by the implementation of promising practices or proven strategies.

(6) The completeness of the description of the proposed service area, including the identification of currently existing services and service deficits.

(7) The degree to which the AIEC will collaborate with the existing service-agencies as evidenced by collaborative agreements that clearly detail the responsibility of collaborating entities.

(c) All applications will be ranked according to their assessed score. Grants will be

awarded on the basis of the applicant's rank and the applicant's funding priority as defined in section 11996.1(j).

NOTE: Authority cited: Section 33382, Education Code. Reference: Section**s 33370 and** 33383, Education Code.

§ 11996.5. Grant Recipient Funding.

(a) The CDE shall determine the amount of grant funds awarded to each grant recipient based upon an analysis of the recipient's application for funds. The factors considered in the analysis shall include, but shall not be limited to, the following:

(1) The comprehensive needs assessment included in the application.

(2) The scope of the project including the activities described in the applicant's comprehensive plan and the type and intensity of services proposed for the program's major activities.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.6. Appeals of Grant Awards.

Applicants who wish to appeal a grant award decision shall submit a written appeal to the CDE within five working days of the posted decision for grant year 2007-08 and within seven working days in subsequent years. Appeals shall be limited to the grounds that the CDE failed to correctly apply the standards for reviewing the applications or the grant award process as specified in the regulations. The appealing applicant shall file a full and complete written appeal, including the issue(s) in dispute, the legal authority or other basis for the appeal position, and the remedy sought. CDE shall not consider incomplete appeals, late appeals or appeals that only refute the readers' comments given for technical assistance.

Any decision to revise the original score or fund the application shall be documented in writing. The CDE's decision is the final administrative action afforded the appeal.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.7. Reporting Requirements.

(a) Each grant recipient shall provide an annual report to the CDE. The report shall be due 60 days from the end of the grant period, and shall contain the following information:

(1) number of pupils enrolled by grade level or age;

(2) number of pupils served by grade level or age and service type and frequency;

(3) a description of how the center meets the continued educational and cultural needs of the community that it serves;

(4) a description of the collaborative activities conducted during the year;

(5) progress made in meeting its stated objectives, including applicable program objectives as stated in **Education Code** ~~**EC**~~ section 33381;

(6) AIEC program enrolled pupil aggregated performance on state academic assessment measures;

(7) recommendations for revisions to the project and its budget based upon an analysis of the data by the grant recipient.

(b) Each grant recipient shall submit annually a report containing the results of a fiscal audit of expenditures. This report is due on ~~**November 1**~~ **April 30**. A one time 60 day extension shall be granted if a request for the extension is made prior to ~~**November 1**~~ **April 30** and demonstrates good cause for such an extension. Grant funds may be used to pay for the preparation of these reports.

(c) The AIEC's shall submit quarterly fiscal expenditure reports. The expenditure reports shall be received by the CDE within six weeks of the end of each quarter. The reports shall be signed by the AIEC accounting officer, and will have two components:

(1) an AIEC summary report by CDE budget line item,

(2) a general ledger which shows the quarter's expenditures in detail.

(d) Failure to submit the annual report, quarterly fiscal reports, or results of the fiscal audit of expenditures by the due dates will result in a delay of the second payment for the current year and all payments for subsequent grant years until the reports are submitted.

NOTE: Authority cited: Section 33382, Education Code. Reference: Sections 33370

and 62000.14, Education Code.

§ 11996.8. Fiscal and Program Monitoring.

(a) The reports received from the AIEC shall be received by the posted due dates and shall be assessed for completeness, accuracy; for use of funds as authorized in law and regulation; and for use of funds as described in the application of the AIEC. The AIEC shall correct any omissions or inaccuracies in the reports and correct any unauthorized expenditures by charging the unauthorized expenditure to a non-AIEC grant fund source.

(b) Program monitoring shall be conducted through CDE review of quarterly and annual reports, written communication, and on site reviews. When problems in implementing program services or achieving program objectives are encountered, the CDE shall schedule meetings, site visits, and/or phone calls to provide training and/or technical assistance to the grant recipient.

(c) The CDE shall provide the AIEC with a written report of any findings, including recommendations, corrective actions and a timeline for the corrective actions, if necessary.

(d) If the CDE determines that the AIEC has not met the terms of the approved application or the law or these regulations, then the AIEC shall be notified by certified mail of any such failure to comply with the terms of the application, laws or regulations. This notice shall specify the time line for corrective action. After issuance of the notice the CDE has the option to amend the time line for corrective action. If the grant recipient does not take action to bring the program into compliance, the CDE shall terminate program funding.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

§ 11996.9. Grant Amount Revisions.

(a) The CDE may reduce grant amounts based on the following conditions:

(1) An across the board reduction will be made in the event of an allocation reduction in the state budget. Each AIEC's grant amount will be reduced

proportionately to the reduction in the Budget Act.

(2) If any services budgeted in an AIEC's application or approved budget revision are not provided within the grant year or first quarter of the subsequent grant year and if a grant extension is not provided pursuant to section 11996.**10** ~~**9(a)**~~, the CDE shall reduce the grant award to the AIEC accordingly.

(b) When supplemental funds are made available through the Budget Act, the CDE shall determine whether such funding supports establishment of additional center programs. If so, a new request for applications shall be issued and the requirements listed in section 11996.3 shall be enforced.

(c) When additional funds are made available through the Budget Act for Cost of Living Adjustments (COLA), the CDE will augment each funded AIEC's proportionately. In order to receive the augmentation each AIEC must submit a Program and Budget Amendment. The Program and Budget Amendment must be received by the CDE 45 days from release and must contain:

(1) A description of how the additional funds will support the existing program.

(2) If the agency plans to use the additional funds to add or revise objectives, then the agency must include Modifications to Objectives including a revised timeline.

(3) A detailed budget for the COLA including narrative.

(d) If the agency does not submit the required forms by the due date, then the agency forfeits the COLA.

(e)~~**(b)**~~ If for any reason grant funding awarded to an AIEC is returned to CDE or never allocated to an AIEC, the AIEOC shall provide input and advice to the SSPI on the use of the funds. Options for use of the funds shall include, but are not limited to, proportional allocation to existing grantees and allocation via competitive application. NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33382, Education Code.

§ 11996.10. Grant Extension.

(a) No later than June 30 of the grant year, the CDE will determine if extensions for

the use of grant funds will be made available for use in the first quarter of the subsequent grant year. Funds from a grant year must be used to provide services in the first quarter of the subsequent grant year**.~~, provided t~~T**he center **must** submit**~~s~~** to the CDE a plan and line-item budget for use of the funds in the subsequent grant year. The plan must demonstrate that the funds would be used to provide supplemental services which would not otherwise be funded from the grant funds of the new year.
NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33383, Education Code.

§ 11996.11. Budget Application Revisions.

(a) Project budget revisions of more than 10 percent of the line item shall be approved in writing by the CDE prior to implementation. Expenditures for any grant activity, or type of equipment not listed in the application budget or approved revision must be approved in advance by CDE.

(b) Revisions to an approved application may be submitted anytime during the annual grant period, so long as the revision is approved prior to implementation of the revision.

NOTE: Authority cited: Section 33382, Education Code. Reference: Section 33370, Education Code.

7-10-07 [California Department of Education]

FINAL STATEMENT OF REASONS
American Indian Education Center Program

UPDATE OF INITIAL STATEMENT OF REASONS

The proposed regulations will set forth guidelines for the selection and administration of California American Indian Education Centers as prescribed in new law (SB 1710, Chapter 880, Statutes of 2006) which requires the State Board of Education (SBE), upon the advice and recommendation of the State Superintendent of Public Instruction, to adopt guidelines for the selection and administration of California American Indian Education Centers (AIEC). In addition, the proposed regulations are necessary to allow implementation of recommendations in the area of AIEC Program monitoring, grant award processes, and fiscal auditing made by the Bureau of State Audits in audit report 2005-104.

The 45-day public comment period for the proposed regulations ended on July 9, 2007. Several comments were received. Due to the comments received, the California Department of Education (CDE) recommends further revisions to the proposed regulations.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF NOVEMBER 18, 2006 THROUGH JANUARY 4, 2007

The public comment period began on May 25, 2007 and ended on July 9, 2007. The following comments were received:

Comment: Hunwut M. Turner, Joseph Chaves, Teleeya Standingwater, Daniel Hernandez, Aaron J. Mendoza, Nancy Arnold, Germaine Omish-Guachena, Terri Cueva, Amanda M. Chavez, Ms. Stapp, Dorothy Martinez and, Ms. Hafen all urged for the continued support of the AIECs. They cited that the centers played a role in the success of American Indian students and their families. They noted that to ensure continued success the AIEC Program should expand and the Budget Act should provide sufficient funding. They expressed support for the AIEC Program, especially the work of the American Indian Education Oversight Committee (AIEOC).

Response: The CDE appreciates the support for the AIEC Program.

Comment: Ms. Go Forth expressed concern over the level of required data that must be collected (11996.3 [B] [1-7]). She stated that the cultural programs are cooperative and social in nature, not allowing for rigid measurements with percentages and time. She further expressed concern over the end of year reporting (11996.7[a][1-7]). Her concern was that the end of year report may ask for data that was not collected during the grant year.

Response: Current law (California *Education Code (EC)* Section 62000.14) states that each center must report on their ability to meet their stated objectives, measure pupil

academic performance, and meet the continued educational and cultural needs of the community that the center serves. The regulations have clarified the level of detail that is required in the application so that end of year reporting meet current law. Further, Section 11996.7(a)(1-7) asks for data for the end of year report that is required in law. This is necessary to allow the CDE to meet the requirement to report consolidated results for all centers, supply information that is required for a comprehensive evaluation of those results, and make recommendations for program improvement. Therefore, the CDE does not recommend any changes to language.

Comment: Ms. Go Forth and Ms. Fisch expressed concern in requiring the AIEC programs to undergo an independent fiscal audit (11996.7[b]). She stated that a fiscal review should suffice and that if the CDE is properly monitoring expenditure reports hiring of an outside auditor would be overkill with the small AIEC budget.

Response: Current law (*EC* Section 62000.14) states that the CDE may require an annual program audit, however, if the Department deems it fiscally unsound for the centers to provide an annual audit, a fiscal review shall suffice. The CDE has determined that an Independent Audit of Expenditures is necessary to validate expenditures charged to the AIEC. This is in direct response to the findings in the Bureau of State Audits report, "Department of Education: *Its Flawed Administration of the California Indian Education Center Program Prevents It From Effectively Evaluating, Funding, and Monitoring the Program,"* which states that the CDE lacks a monitoring process to ensure that centers spend funds appropriately, pursue program goals, and report accurate data. The CDE does not agree that an Independent Audit of Expenditures is excessive. Therefore, the CDE does not recommend any changes to language.

Comment: Ms. Go Forth was concerned that the CDE has no timeline for sending written reports of findings to the AIECs as a result of CDE monitoring. Her concern was that if an AIEC was required to make corrections and the corrections were not made within the funding cycle the AIEC would be terminated.

Response: The regulations state that the CDE shall provide the AIEC with a written report of any findings including recommendations, corrective actions and a timeline for the corrective actions, if necessary. She is incorrect that corrections must be made within the funding cycle. The corrections must be made within the timeline provided by the CDE which will be included in the written report. Therefore, the CDE does not recommend any changes to language.

Comment: Ms. Fisch was concerned that the due dates of the required Audit of Expenditures would be a hardship on tribes and community based organizations.

Response: The CDE agrees that this may present a hardship to funded agencies and will adjust the due dates of the Audit of Expenditures.

Comment: Ms. Go Forth and Ms. Fisch were concerned that there is contradictory language in Section 11996.11(a). They were concerned that this would be overly burdensome to the AIECs. They believe that the language is too restrictive.

Response: Section 11996.11(a) allows the AIECs budgetary leeway of 10 percent per line item. If an AIEC anticipates a greater than 10 percent change in a line item a budget revision is required. This allows the CDE to review and approve or disapprove the change. This requirement ensures that previously unapproved equipment purchases and activities fall within the scope of the program and that AIECs utilize sound fiscal practices in managing budgets.

The CDE recommends adding the following:

Section 11996.9 – amend by adding sections that the CDE will determine allocation of supplemental funding. Also, adding language that addresses the allocation of COLA funds, the requirements for the augmentation, the time lines, and the consequences for not meeting timelines.

Section 11996.7(b) – amend by adjusting the due dates of the Audit of Expenditures.

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 as and less burdensome to affected private persons than the proposed regulations.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ITEM #~~_____~~#20

CALIFORNIA STATE BOARD OF EDUCATION

July 2007 AGENDA

SUBJECT	
Educational Interpreters for Pupils Who are Deaf or Hard of Hearing – Approve Commencement of 15-Day Comment Period for Proposed Changes to Proposed Title 5 Regulations, Section 3051.16 and Section 3065	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law for approval; and
- If any relevant comments to the proposed changes are received during the 15-day public comment period, CDE is directed to place the proposed regulations with changes on the SBE's September 2007 agenda for action following.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the January 2007 meeting, the SBE approved the recommended amendments to the *California Code of Regulations*, Title 5, Section 3051.16 and Section 3065, related to Educational Interpreters for Pupils Who are Deaf or Hard of Hearing. The amended regulations were submitted to the Office of Administrative Law for approval. Due to concerns raised by the Office of Administrative Law, the regulations were pulled by CDE on May 2, 2007.

SUMMARY OF KEY ISSUES

The regulations, as approved by the SBE in January, 2007, would have established the following qualifications for educational interpreters for pupils who are deaf or hard of hearing:

(1) By July 1, 2007, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID); have achieved a score of 3.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter (ESSE-I), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment; or have met comparable requirements. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 3.0 or above on the EIPA – Cued Speech or have met comparable requirements.

(2) By July 1, 2008, an educational interpreter shall be certified by the national RID; have achieved a score of 3.5 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment or have met comparable requirements. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA – Cued Speech or have met comparable requirements.

(3) By July 1, 2009, an educational interpreter shall be certified by the national RID; have achieved a score of 4.0 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment or have met comparable requirements. 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 or have met comparable requirements.

The regulations have been amended, in accordance with advice from the Office of Administrative Law. Concerns were raised by the Office of Administrative Law regarding the vagueness of the term “or have met other comparable requirements.” The new language requires interpreters to be RID certified “or equivalent,” meaning they have demonstrated proficiency by receiving a passing score on a valid, reliable assessment, such as the EIPA, the ESSE, or the NAD/ACCI evaluation.

FISCAL ANALYSIS (AS APPROPRIATE)

Fiscal Analysis will be provided as an addendum, if completed by the time the SBE meeting commences.

ATTACHMENT(S)

Attachment 1: Amended Title 5 Regulations, Educational Interpreters for Pupils Who are Deaf or Hard of Hearing (4 Pages)

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 3. Handicapped Children

Subchapter 1. Special Education

Article 5. Implementation (Program Components)

§ 3051.16. Specialized Services for Low-Incidence Disabilities.

(a) Specialized Services for low-incidence disabilities may include:

(1) Specially designed instruction related to the unique needs of pupils with low-incidence disabilities provided by teachers credentialed pursuant to Education Code section 44265.

(2) Specialized services related to the unique needs of pupils with low-incidence disabilities provided by qualified individuals such as interpreters, notetakers, readers, transcribers, and other individuals who provide specialized materials and equipment.

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

(1) ~~Any educational interpreter for deaf and hard of hearing pupils employed as of January 1, 2007, must be certified by the Registry of Interpreters for the Deaf (RID) or equivalent, or if providing cued speech interpreting services, by any certifying body recognized by the National Cued Speech Association (NCSA).~~ By July 1, 2007, 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 shall** have achieved a score of 3.0 or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter (ESSE-I), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment~~**; or have met comparable requirements**~~. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of 3.0 or above on the EIPA – Cued Speech ~~**or have met comparable requirements**~~.

(2) By July 1, 2008, 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 3.5 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment ~~**or have met comparable requirements**~~. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA – Cued Speech ~~**or have met comparable requirements**~~.

(3) By July 1, 2009, 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, or the NAD/ACCI assessment ~~**or have met comparable requirements**~~. 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 ~~**or have met comparable requirements**~~.

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

NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section 56363, Education Code; and Section ~~300.23~~ 300.34 and 300.156 (b)(1), Title 34, Code of Federal Regulations.

Article 6. Nonpublic, Nonsectarian School and Agency Services

Amend section 3065 and renumber subdivisions (h) – (w) to read:

§ 3065. Staff Qualifications - Related Services including Designated Instruction and Services.

…

(h)~~(t)~~ ~~Specialized~~ An "educational ~~interpreting~~ interpreter" ~~or transcribing services for pupils with low incidence disabilities~~ provides communication facilitation between students who are deaf or hard of hearing, and others, in the general education classroom and for other school related activities, including extracurricular activities, as

designated in a student's IEP. ~~shall be provided only by the following personnel:~~

(1) Interpreters for deaf and hard of hearing pupils shall ~~possess certification issued by the Registry of Interpreters for the Deaf or equivalent, or if providing cued speech services, by any certifying body recognized by the National Cued Speech Association; and~~ meet the following qualification standards:

(A) By July 1, 2007, an educational interpreter shall be certified by the national RID, **or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall** have achieved a score of 3.0 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment ~~**or have met comparable requirements**~~. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.0 or above on the EIPA – Cued Speech ~~**or have met comparable requirements**~~.

(B) By July 1, 2008, an educational interpreter shall be certified by the national RID, **or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall** have achieved a score of 3.5 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment ~~**or have met comparable requirements**~~. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 3.5 or above on the EIPA – Cued Speech ~~**or have met comparable requirements**~~.

(C) By July 1, 2009, an educational interpreter shall be certified by the national RID, **or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall** have achieved a score of 4.0 or above on the EIPA, the ESSE-I, or the NAD/ACCI assessment ~~**or have met comparable requirements**~~. 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 ~~**or have met comparable requirements.**~~; ~~and~~

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

(j)~~(i)~~(1) "Home and hospital services" means…

(k)~~(j)~~(1) "Language and speech development and remediation" means…

(l)~~(k)~~(1) "Occupational therapy" means…

(m)~~(l)~~(1) "Orientation and mobility instruction" means…

(n)~~(m)~~(1) "Parent counseling and training" means…

(o)~~(n)~~(1) "Physical therapy" means…

(p)~~(o)~~(1) "Psychological services" means…

(q)~~(p)~~(1) "Recreation services" means…

(r)~~(q)~~(1) "Social worker services" means…

(s)~~(r)~~(1) "Specialized driver training instruction" means…

(t)~~(s)~~(1) "Specially designed vocational education and career development" means…

(u)(1) "Specialized services for low-incidence disabilities" means…

(v)~~(2)~~ Transcribers for visually impaired pupils shall have a certificate issued by the Library of Congress as a Braille Transcriber.

(w)~~(v)~~(1) "Vision services" means…

(x)~~(w)~~ Other designated instruction and services not identified in this section shall only be provided by staff who possess a license issued by a licensing agency with the Department of Consumer Affairs authorizing the licensee to provide the specific service or possess a credential authorizing the service or is qualified to provide the service.

NOTE: Authority cited: Sections 33031, 56100 and 56366(e), Education Code. Reference: Section 17505.2, Business and Professions Code; Section 56366.1, Education Code; and Sections ~~300.136 and 300.23~~ 300.34 and 300.156 (b)(1), Title 34, Code of Federal Regulations.

5-15-07 [California Department of Education]

ITEM #21

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
State Board of Education-Approved Charter Schools: Update	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) receive an oral update on the SBE-approved charter schools and take action as deemed necessary and appropriate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Currently, seven individual charter schools are operating under the SBE's authorization and an eighth charter school will commence operation in fall 2008, as summarized on the table below.

Charter #	Charter School Name	Approval Date	Opening Date	Renewal Date
350	Ridgecrest Charter School (Kern County)	Dec 2000	Sep 2001	Mar 2009
158	Edison Charter Academy (San Francisco)[1]	Jul 2001	Aug 2001	Jun 2011
431	New West Charter School (Los Angeles)[2]	Dec 2001	Sep 2003	Jun 2008
432	Ánimo Inglewood Charter High School	Dec 2001	Sep 2002	Jun 2010
505	School of Arts and Enterprise (Pomona)	Sep 2002	Sep 2003	Jun 2011
678	Livermore Valley Charter School	Nov 2004	Sep 2005	Jun 2008
684	Leadership Public Schools-Hayward	Mar 2005	Sep 2005	Mar 2008
901	Aim High Community Charter School	May 2007	Sep 2008	Jun 2012

Since January 1994, the SBE and the State Superintendent of Public Instruction (SSPI) have jointly approved eight all-charter districts (that include a total of 15 schools), as shown on the table below.

[1] Originally approved by the San Francisco Unified School District, but the SBE became the authorizer at the time of first renewal.
[2] Initially granted for a three-year term to expire June 30, 2005, but in subsequent actions, the SBE extended the initial term, which now expires June 30, 2008.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION (Cont.)

Charter #	District Name (County)	Approval Date	Renewal Date
D-1	Pioneer Union Elementary School District (Kings)	Jan 1994	May 2009
D-2	Kingsburg Union Elementary School District (Fresno)	May 1996	Jun 2011
D-3	Delta View Joint Union Elementary School District (Kings)	Jun 1999	May 2009
D-4	Hickman Community Charter District (Stanislaus)	Jul 1994	Jan 2010
D-5	Alvina Elementary Charter School District (Fresno)	Jul 2000	May 2010
D-6	Island Union Elementary School District (Kings)	Oct 2000	May 2010
D-7	Kings River-Hardwick School District (Kings)	May 2001	May 2009
D-8	Jacoby Creek Charter School District (Humboldt)	Jun 2002	Jan 2009
D-9	Ackerman Elementary School District (Placer)	May 2007	Jun 2012

The SBE approved the first and second statewide benefit charter schools in January 2006 and January 2007, respectively. Each of these schools plans to begin operating two school sites in August 2007. Provided academic achievement during the first two years of operation at the first two school sites meets a specified minimum threshold, each statewide benefit charter school may then open additional school sites, but no more than two additional sites per year.

Charter #	Statewide Benefit Charter School	Approval Date	Opening Date	Renewal Date
756	High Tech High	Jan 2006	Aug 2007	Jun 2012
854	Aspire Public Schools	Jan 2007	Aug 2007	Jun 2012

SUMMARY OF KEY ISSUES

Pursuant to *Education Code* (*EC*) Section 47605(j), a charter school petition (in most cases) must first be denied by both a local school district and a county office of education before it may be presented to the SBE on appeal.

EC Section 47605.8 allows a charter school petitioner to submit a petition directly to the SBE for the operation of a statewide benefit charter school that may operate at multiple sites throughout the state. The SBE may not approve the petition for a statewide benefit charter school unless it finds that the charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district or only one county.

As the charter authorizer, the SBE has monitoring responsibilities for its charter schools. The CDE Charter Schools Division staff monitors the charter schools on the SBE's behalf and provides periodic reports on the charter schools. As a result of the passage of Assembly Bill (AB) 1137 (Chapter 892, Statutes of 2003), the oversight responsibilities of authorizing entities, including the SBE, have been more clearly defined (*EC* Section 47604.32). All authorizing entities are required to identify a contact

SUMMARY OF KEY ISSUES (Cont.)

person, visit the charter school annually, ensure compliance with all reporting requirements, monitor the fiscal condition, and provide notification regarding renewal, revocation, or ceasing of operations.

AB 1137 also amended *EC* Section 47607, which pertains to the renewal or revocation of charters and includes the addition of performance criteria to be met prior to receiving a charter renewal. The law provides that the cost of performing these duties shall be funded with supervisory oversight fees collected pursuant to *EC* Section 47613 (an amount not to exceed one percent of the school's general purpose and categorical program revenue in most cases).

There are currently two full-time-equivalent staff in the Charter Schools Division assigned to oversee the eight SBE-approved charter schools currently operating, the eight all-charter districts, and the two statewide benefit charter schools. Assigned staff make periodic site visits to the SBE-authorized charter schools and all-charter districts.

For charter schools authorized by the SBE on appeal, *EC* Section 47605(k)(1) provides that the SBE may, by mutual agreement, designate its supervisory and oversight responsibilities to any local educational agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition (although this has never been done). Similarly, for statewide benefit charters, *EC* Section 47605.8(c) provides, as a condition of approval, that the SBE may enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report on the operations of the charter school.

With regard to all-charter districts (which are established by joint approval of the SBE and the SSPI), county offices of education currently provide a significant amount of assistance and oversight under AB 1200 (Chapter 1213, Statutes of 1991). Unlike the two types of SBE-approved charters, there is no specific provision for contracting or delegating by agreement the oversight responsibility for all-charter districts.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no specific action requested under this item, so no fiscal impact can be identified.

ATTACHMENT(S)

None

ITEM #22

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
2007-2010 Federal Public Charter Schools Grant Program Request for Applications	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the 2007-2010 Public Charter Schools Grant Program (PCSGP) Request for Applications (RFA).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The United States Department of Education (ED), Office of Innovation and Improvement, awards grants to support the expansion of charter schools to those states that have adopted charter school legislation and have demonstrated a commitment to increasing the number of charter schools, especially in geographic areas of chronically poor performing schools. Through these grants, state educational agencies make these funds available in the form of sub-grants to charter developers. California has received these funds since 1995 and has submitted an application which was approved by the SBE for funding over the next three years. The ED anticipates announcing awards in June 2007.

The CDE distributes these funds on a competitive basis through the RFA process. The State Board of Education (SBE) has approved previous RFAs for the distribution of PCSGP funding, including the distribution of approximately $81 million to California charter developers and charter schools to plan and implement new schools and to share best practices in 2004-2007. Over two hundred new charter schools were started with those funds and sixteen dissemination grants were made to distribute best practices developed in charter schools.

SUMMARY OF KEY ISSUES

The PCSGP is authorized by the No Child Left Behind Act of 2001, Title V, Part B. California was awarded $108 million under this program, and the CDE will distribute these funds in sub-grants to local educational agencies and nonprofit entities over the next three years.

SUMMARY OF KEY ISSUES (Cont.)

The PCSGP will annually award one hundred $45,000 preplanning sub-grants to non-profit entities to develop a high quality charter school petition for approval by a local authorizing entity. Competition for these funds will be focused on the capacity of the non-profit founding group/governing board to start a successful charter school as stated in a published rubric. The CDE will also award approximately seventy-five sub-grants annually to new charter schools to assist with the costs of planning, opening and operating high quality charter schools. Some funds will be awarded as augmentations to preplanning grants and others to new charter schools that did not receive preplanning sub-grants. Applications will be evaluated against a published rubric on leadership capacity, quality of the educational program, and the degree of parent involvement. Preference for funding will be awarded to schools that will serve educationally disadvantaged students, defined as those who reside in the home attendance area of a chronically low performing school, with additional preference given to secondary schools.

This RFA does not request applications for dissemination grants. Applications for those funds will be requested in a separate RFA and contract bidding process. The CDE plans to centralize dissemination activities through a newly designed *Best Practices Seminar Program* that will provide a conference-like setting for traditional public school and charter school practitioners to attend seminars presented by “guest lecturers” on the best practices of high quality charter schools. Some of these guest lectureships will be awarded as grants to high quality charter schools, and some will be awarded as contracts, using state administration funds, to charter resource providers, including charter network developers, authorizing entities, charter associations, and charter school management organizations. The RFA was presented to the Advisory Commission on Charter Schools (ACCS) on April 20, 2007. The ACCS gave a unanimous recommendation to approve to the SBE.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the 2007-2010 RFA will allow CDE to initiate the process of awarding PCSGP local assistance over the next three years. The SBE approves awards to all grant recipients. Approximately $5 million in administrative funds will be available to the CDE for administering the PCSGP.

ATTACHMENT(S)

Attachment 1: Draft 2007-2010 Public Charter Schools Grant Program Request for Applications (71 Pages)

REQUEST FOR APPLICATIONS

PUBLIC CHARTER SCHOOLS GRANT PROGRAM

2007, 2008, 2009

Online Application Required

http://www.cde.ca.gov.....

Precharter Grants

Application Filing Periods:

Friday, July 13, 2007 through Thursday, August 2, 2007
Friday, July 11, 2008 through Thursday, July 31, 2008
Friday, July 10, 2009 through Friday, July 31, 2009

Planning and Implementation Grants

Application Filing Period: Ongoing acceptance

Technical Assistance
Dates and times: page x
http://breeze.cde.ca.gov/charter/

California Department of Education
Charter Schools Division
1430 N Street, Room 5401
Sacramento, CA 95814
E-mail: charters@cde.ca.gov
(916) 322-6029

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I. INTRODUCTION

The 2007-2010 California Public Charter School Grant Program (PCSGP) has undergone significant changes in policy and program. Applicants familiar with previous grant funding through the PCSGP should read this Request for Applications (RFA) carefully to ensure they are responding to the new requirements. The use of obsolete application forms or procedures may significantly lower the score of a submitted application.

The federal Charter Schools Program (CSP), authorized by 20 U.S. Code sections 7221-7221j, is administered by the ED. It is a discretionary grant program, and each state is required to compete for available funding every three years. States that are awarded these federal funds distribute them in grants to charter school developers to assist in the development and initial operations of newly established or conversion high quality charter schools. California was awarded $108 million in grant funds for 2007-2010.

The CDE will award approximately 100 *Precharter* grants and 75 *Planning and Implementation (P&I)* grants each year for the next three years, pending annual allocations from the ED. *Dissemination* grants and contracts will be awarded under a separate RFA in 2009 only.

The California Department of Education (CDE) has added new priorities and incentives to the 2007-2010 PCSGP program design. The highest priority is to financially assist newly established and conversion charter schools that propose to increase the academic achievement of students who are at greatest risk of not meeting challenging state academic standards and who reside in the attendance area of chronically low performing schools, as indicated by being in Program Improvement, Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act, as amended by the No Child Left Behind (NCLB) Act, and having a state rank of 1 or 2 on California's Academic Performance Index (API). Applications for charter schools that meet this priority will receive a competitive point advantage and will be eligible for a larger *P&I* grant award. Additional points will be awarded to applications that meet these

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criteria and that propose to serve a majority of secondary students (defined as grades 7-12).

2007-2010 PCSGP Grant Types

There are three types of grants available through the 2007-2010 PCSGP. This RFA is for the first two types. The third type, *Dissemination* grants, will be available only in 2009 through a separate RFA.

1. ***Precharter* Grants –** Awards are made to assist in the cost of obtaining an approved charter. Funds are not intended for the purpose of exploring the feasibility of developing a charter school. Only nonprofit entities and local education agencies may apply for *Precharter* grants, and only one *Precharter* grant per year per developer will be awarded. *Precharter* grants will not be awarded to individuals or for-profit organizations.

2. ***Planning and Implementation (P&I)* Grants** – A newly established or a conversion charter school may apply for a *P&I* grant. If open, the school must not have been serving students for more than one school year at the time of application. Grant funds are intended to support the final planning and initial operation of the charter school**.** A developer is limited to a maximum of three *P&I* grants in each grant cycle, although the CDE will consider waivers to this limitation for developers opening more than three charter schools for the purpose of restructuring a large public high school into smaller learning communities.

3. ***Dissemination* Grants and Contracts** (Available in 2009 through a separate RFA and contract bid process. Interested parties should register at http://www.cde.ca.gov/fg/fo/af/joinlist to receive notices of the availability of these funds.) Charter schools may apply for a grant, and charter experts, including charter associations, may apply for a contract, to distribute best practices to

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traditional public school and charter school practitioners at a *Best Practices Seminar Program* to be held in 2010.

Submitting an Application

Applications must be completed online at xxxxxxxxxxxxxxxxxxxxxxxxxx Costs of preparing and submitting applications are the responsibility of the applicant and may not be charged to the grant.

Technical Assistance

Technical assistance will be provided to *Precharter* grant applicants through interactive Web casts held at 10:00 a.m. each Tuesday during the application period. A broadband Internet connection, Macromedia Flash Player software, and workstation speakers are required to participate in the Web cast. Web casts can be accessed at http://breeze.cde.ca.gov/charter.

P&I grant applicants may obtain technical assistance by telephone at (916) 322-6029, or by e-mail at charters@cde.ca.gov.

Application Due Dates

***Precharter* grant applications**: The online application system will only accept *Precharter* grant applications during the specified time frames identified below, and applications must be submitted no later than 11:59 p.m. Pacific Daylight Time, on the last day of the application period. The *Precharter* application filing periods are:

- Friday, July 13, 2007, through Thursday, August 2, 2007
- Friday, July 11, 2008, through Thursday, July 31, 2008
- Friday, July 10, 2009, through Friday, July 31, 2009

***P&I* applications**: Applications for *P&I* funding may be submitted at any time after the charter has been numbered by the SBE through the first year of operation of the school. The automated application system will notify the Charter Schools Division that an application has been submitted, and a peer review will be scheduled when the

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approved charter and the minutes of board action of the authorizing entity documenting the approval of the charter school have been received. Refer to Section III*, Planning and Implementation Grant Specifications*, for more information.

Selection of Awards

Federal law requires a peer review of PCSGP applications. California recruits national and state charter school developers, governing board members, operators, and authorizers to participate on review panels coordinated by the CDE. Reviewers are required to recuse themselves from the evaluation of any application for which they have a perceived or real conflict of interest.

All applications will be reviewed using the applicable rubric, and a minimum score of 75 points is required for funding. Refer to Appendices J and K.

Precharter grant applications will be reviewed annually, and awards will be announced each year at the September State Board of Education (SBE) meeting. *P&I* grant applications will be reviewed on an ongoing basis, within one month of submission of all required application components. Awards will be announced at the next scheduled SBE meeting after completion of the application review.

Appeal Process

Applicants may request the comments and final score of the review panel. An appeal of a grant award decision may be filed by submitting a written request for a hearing within 30 days of receiving official notification from the CDE that their application was not approved for a grant award. Requests to appeal the denial of a grant award must identify a violation by the CDE of a state or federal statute or regulation in failing to approve an application, or failing to award funds in amounts in accordance with the requirements of statutes and regulations, or failing to comply with California's approved 2007-2010 CSP application. See Appendix H to review federal appeal procedures [34 *Code of Federal Regulations* 76.401(c) (d) (2)-(7)].

Requests to appeal should be addressed to:

California Department of Education

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Charter Schools Division
Public Charter Schools Grant Program
1430 N Street, Rm. 5401
Sacramento, CA 95814

PCSGP Time Line

ACTIVITY	DATE
Precharter grant application filing period begins	Friday, July 13, 2007 Friday, July 11, 2008 Friday, July 10, 2009
P&I grant application filing period	Continuous
P&I grant application training Web cast available at: xxxxxxxxxxxxxx	Continuous
Precharter grant application training Web cast available at: xxxxxxxxxxxxxx	Friday, July 13, 2007, through Thursday, August 2, 2007 Friday, July 11, 2008, through Thursday, July 31, 2008 Friday, July 10, 2009, through Friday, July 31, 2009
Interactive technical assistance by Web cast. Logon at	Tuesdays at 10:00 a.m. during grant filing period
Precharter grant applications due Thursday, at 11:59 p.m.	August 2, 2007 July 31, 2008 July 31, 2009
P&I grant applications due	Ongoing acceptance
P&I application scoring completed	Within 1 month of submission
SBE approves *Precharter* grant awards	September 2007, 2008, 2009
SBE approves *P&I* grant awards	ongoing

Grant Monitoring

The CDE will monitor grants by reviewing and approving quartely financial reports and annual status reports. All information in these reports is subject to verification, and the CDE may require additional information from the grantee, verify information with the authorizing entity, require the submission of invoices and receipts, or use any other appropriate and legal means to obtain such verification. The CDE will

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also conduct site visits to *P&I* grantees during the grant project period. Prior to these monitoring visits, the grantee may be required to submit additional relevant information that will allow the CDE to conduct a useful, efficient, and effective visit.

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II. *Precharter* Grant Specifications

Precharter grants are a new design element of the PCSGP. Because of delays that many charter developers are experiencing in obtaining an approved charter, federal restrictions that limit grant project time frames, and state restrictions that define allowable school opening dates, some previous grantees have been unable to successfully complete their grants. The 2007-2010 PCSGP will now allow grantees who were unable to obtain an approved charter for a charter petition submitted to an authorizing entity during the grant project period, to be placed into inactive status. When an approved charter has been obtained, a grantee may apply for *P&I* funding. This redesign helps to mitigate the negative impact of delays caused by external factors over which a grantee has no control.

The *Precharter* grant application is designed to evaluate the capacity of the applicant to obtain an approved charter for a school that is likely to become a high quality charter school that improves student academic achievement, especially for students who reside in the attendance area of a chronically low performing school.

Applicants should note that a *Precharter* grant is not a guarantee of additional *P&I* funds after an approved charter has been obtained, and that a separate application is required for *P&I* funding. Please refer to the *P&I* Grant Specifications in Section III of the RFA for more information about these grant funds.

Eligible Applicants

To be eligible for *Precharter* grant funds, all of the following conditions must be met:

- The applicant must be a nonprofit entity or local education agency. Individuals and for-profit entities may not apply for a *Precharter* grant.
- If the applicant is operating other charter schools in California, those schools must be achieving adequate yearly progress (AYP) under NCLB.

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- The application must be submitted for the development of a newly established charter school that does not have an approved charter. Refer to Appendix A for definition of newly established charter school.
- Applicants may apply for only one *Precharter* grant in each grant cycle, regardless of the number of schools they plan to open. Applicants may receive funds only once for precharter activities for any school.
- The applicant must expend grant funds only for activities related to submitting and obtaining an approved charter and within the grant project period.
- An applicant who has previously received PCSGP grant funds prior to the 2007-2010 grant cycle for the purpose of developing and obtaining an approved charter must have submitted a charter petition to an authorizing entity during the grant project period, **or** must have returned all grant funds.
- Future PCSGP grant funding is contingent on satisfactory completion of activities required in previous PCSGP grant awards.

Preference Points

Precharter applicants will receive 30 preference points for proposing to start or convert a charter school that will be located, and will have a total enrollment containing a majority of students who reside, in the attendance area of at least one NCLB Title 1, Part A school in Program Improvement (PI) Years 3, 4, or 5 that has an API state rank of 1 or 2. Applicants who receive a *Precharter* grant that sought and was awarded preference points should note that eligibility for *P&I* funding is contingent upon submitting an approved charter that identifies a charter school that will serve the population for whom preference points were awarded.

An additional 10 preference points will be awarded to *Precharter* grant applicants meeting the above preference and proposing to have a total enrollment that contains a majority of secondary students (grades 7-12.).

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Maximum funding Level and Length of Grant Award

The maximum grant award for a *Precharter* grant is $45,000 and the maximum length of the grant project period is six months. *Precharter* funds cannot be used for any activities occurring after the charter is approved, and any unexpended funds, as of the approval date of the charter or at the end of the six-month grant project period, must be returned to the CDE.

Permissible Use of Funds

Please refer to Appendix B for allowable *Precharter* grant project costs. The CDE will evaluate all grant project budgets to ensure that costs are reasonable and allowable under the CSP guidelines, and may require modifications as a condition of funding.

Grant Payment Schedule

Unless the CDE determines that a different disbursement schedule is necessary, payments will be released to grantees in two quarterly advances and one final payment of 10% of the grant award, pending the submission and approval of status and expenditure reports, a request for payment based on projected expenditures during the next quarter, and other documents listed below as required:

- **Certification of Award and Assurances**
  The Certification of Award and Assurances is a legally binding document between the CDE and the grant recipient. Recipients must return the Certification of Award and Assurances, with the original signature of the president of the non-profit board of directors or the superintendent of the LEA submitting the application.

- **Contracting Standards (if contracts will be made with grant funds)**
  If grant funds are used to contract for goods or services, federal regulations require that grantees report that they have developed standards for awarding

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contracts. Federal regulations for these contract standards are contained in Appendix C. The CDE will evaluate the use of these standards during its monthly review of grantee expenditures, and may request to see the grantee's contracting standards at any time. Costs associated with contracts **not** negotiated in accordance with federal regulations will be disallowed.

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- **Organizational and Governance Documents**
  Grantees must certify that organizational charts, articles of incorporation, and any other organizational and governance documents of the agency are on file at the business offices of the nonprofit, public benefit corporation.

Application Instructions

The online application form allows applicants to save draft versions of the application and to make edits. Once the application is submitted as final, edits are no longer possible. The application must be submitted as final prior to the due date and time. By submitting the application the applicant agrees to be accountable for, and to abide by, the terms, conditions, and definitions of the PCSGP.

The online application requires the applicant to provide identifying information about the proposed charter school, contact information, a Project Narrative, and a monthly budget of proposed grant project expenditures.

The Project Narrative is the only section of the application that will be scored. It is limited to a maximum of 1500 words, and the first two criteria listed below must be addressed in the Project Narrative. If the application meets the third and fourth criteria listed below, the appropriate preference points will be automatically awarded. The applicant is not required to address the third and fourth criteria in the Project Narrative.

Criteria Used to Determine Score:

1. The capacity and resources of the non-profit entity to develop and operate a high quality charter school. (40 points)
2. The level of community and parent support for the proposed school. (30 points)
3. Whether the proposed charter school will be located in the attendance area of a traditional public school that is identified as being in Program Improvement, Years 3, 4, or 5 under Title 1, Part A of NCLB and that has a state rank of 1 or 2 on the API. (20 preference points) **Important Notice**: *Precharter* grantees that

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apply for this preference will be eligible for *P&I* funds only if the approved charter clearly indicates that the school meets this criterion.

4. The proposed charter school's enrollment will consist of a majority of secondary students. (10 preference points)

The CDE may require an oral interview of members of the founding group submitting the application. The interview may be used to determine the final score of the application using the rubric specified in Appendix J.

The budget will not be scored but it must be included in the application. *Precharter* grant applicants must project spending, by month, through the date of expected approval of the charter, for a total grant project period of up to six months.

All budget line items must contain enough detail for the CDE to understand how funds will be used, such as the level of effort of employees and contractors, and the volume/unit cost of supplies and equipment. The CDE may require funded grantees to amend or modify their budgets if budgets contain unreasonable or unallowable costs under federal guidelines, as determined by the CDE.

Notes:

- Grant funds cannot be used for fundraising or for the purchase of land or facilities.
- Construction and remodeling expenses are not allowable expenditure of *Precharter* grant funds.

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III. *Planning and Implementation (P&I)* Grant Specifications

The purpose of *Planning and Implementation (P&I)* grants is to provide financial assistance for the final planning and initial operations of newly established and conversion charter schools. Refer to Appendix A for the definitions of "newly established" and "high quality" as they apply to this RFA.

P&I funding is a new design element of the 2007-2010 PCSGP, and it is important for applicants to note changes and new definitions within this category of funding.

- Planning: In previous grant cycles, planning activities referred to those that took place prior to receiving an approved charter. Now planning activities refer to those that occur after obtaining an approved charter but prior to opening of the school. Planning activities must be completed within 12 months, and any time spent on PCSGP funded precharter activities is included within these 12 months.
- Implementation activities now refer to only those that occur after the school is open and are limited to 24 continuous months.
- Planning and implementation activities are limited to a maximum continuous 36 months.
- *P&I* grants cannot be placed into inactive status. All funded project activities must be completed during the grant project period.
- *P&I* applications may now be submitted at any time and applicants are advised to time their *P&I* applications to match the opening date of their school(s).
- If not approved for a grant, applicants may seek a material revision to the charter that better addresses the application criteria and resubmit it.

Another significant change in the 2007-2010 PCSGP is the increased impact of preference to more strongly emphasize the goals of the federal CSP. Preference will be demonstrated by:

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- An increased number of preference points applied to the final scores of applications proposing to operate a charter school that has a total enrollment that consists of a majority of students residing in the attendance areas of chronically low performing schools, defined as those in Program Improvement (PI) Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act, **and** that have a state rank of 1 or 2 on California's Academic Performance Index (API).
- Significantly increasing the size of grant awards for schools serving a majority of the above student population.
- Considering waivers to the limitation of three *P&I* grants per year per charter developer if the developer is opening more than three charter schools for the purpose of restructuring a large public high school into smaller learning communities.

Eligible Applicants

To be eligible for *P&I* grant funds, **all** of the following conditions must be met:

- The applicant must be an SBE-numbered charter school operated by or as a nonprofit entity or by a local education agency.
- The applicant must have an approved charter for a newly established school that has not yet opened or has been open for no more than one school year. Refer to Appendix A for definition of newly established charter school.
- If an applicant has previously spent PCSGP funds to develop a charter petition for any school, the petition must have been submitted to an authorizing entity during the grant project period during which funds were awarded. If an applicant has previously spent PCSGP funds for the planning and/or initial operation of an SBE numbered charter school, it must have the same number of open and operating charter schools as the number of PCSGP grants received.
- Applicants who were awarded preference points for, and received, PCSGP funds to obtain an approved charter must submit an approved charter that clearly

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identifies the newly established charter school will serve a majority of the student population for which preference points were awarded.

- Applicants must submit an approved charter that identifies the capacity to attain an enrollment level of at least 50 students during the grant project period.

Preference Points

Preference points are available to *P&I* applicants who submit an application that includes an approved charter which clearly identifies that the charter school will be located in, and serve a majority of students who reside in the attendance area of at least one NCLB Title 1, Part A school in Program Improvement (PI) Years 3, 4, or 5 that has an API state rank of 1 or 2. Additional preference will be awarded to schools that meet this criterion and whose enrollment consists of a majority of secondary students (grades 7-12).

Note: Charter schools that are a conversion, reconfiguration, or restructure of an existing traditional public school in Program Improvement, Years 4 or 5, must develop and implement a contract, based on elements identified in Appendix F, with an entity other than itself to assist in the transition to charter status. This entity could be an educational management organization, consulting firm, or neighboring LEA having experience and success in improving the academic achievement of a similar student population.

Maximum Funding Level and Length of Grant Award

All *P&I* grantees are eligible for the maximum grant award allowable as determined by enrollment and type of school. Please refer to Table 2. Charter schools that are not yet open will receive grant funds over a period of time not to exceed 36 months, and schools that are already open will receive the maximum grant award over a period of time not to exceed 24 months.

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The planning phase of *P&I* funding is limited to 12 months, and begins when funds are awarded and ends on the date the school opens. (Time spent on PCSGP *Precharter* grant activities is deducted from this time limit.)

The implementation phase of *P&I* funding begins the date the school opens and is limited to 24 months. Applicants should carefully consider these time frames and restrictions to determine the most beneficial time frame for submitting a *P&I* application.

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Maximum *P&I* Award Amounts
Table 2

School Type & Enrollment Level	Maximum Award	Planning Year	Implementation Yr 1	Implementation Yr 2
		Or if school is open prior to receiving grant funds:		
		Implementation Yr 1	Implementation Yr 2	
Site-based schools PI Yr 3, 4, or 5 and API 1 or 2 preference 100+ students	$600,000	$250,000	$200,000	$150,000
Site-based schools PI Yr 3, 4, or 5 and API 1 or 2 preference 50-99 students	$500,000	$200,000	$200,000	$100,000
Site-based schools Not in PI Yr 3, 4, or 5 100+ students	$450,000	$200,000	$175,000	$75,000
Site-based schools Not in PI Yr 3, 4, or 5 50-99 students **or** Non site-based schools **or** conversion schools	$250,000	$100,000	$100,000	$50,000

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Permissible Use of the Grant Award

Grantees may only use grant funds for allowable grant project expenditures during the grant project period. Any unexpended funds remaining at the end of the grant project period must be returned to the CDE.

The CDE will evaluate all grant project budgets to ensure that they are reasonable and allowable under federal guidelines, and may require modifications as a condition of funding. Please refer to Appendix B for a description of allowable costs.

Grant Payment Schedule

Unless the CDE determines that a different disbursement schedule is necessary, all payments will be released to grantees as advances on a quarterly basis, pending the submission and approval of quarterly status and expenditure reports, a request for payment based on projected expenditures during the next quarterly, and other documents listed below:

- **Certification of Award and Assurances**
  The Certification of Award and Assurances is a legally binding document between the CDE and the grant recipient. Upon notice of award, grantees must return the Certification of Award and Assurances, with the original signature of the designated official of the applicant, either the president of the board of directors of the nonprofit entity, or the superintendent of the local education agency.

- **Contracting Standards (if contracts will be made with grant funds)**
  If grant funds are used to contract for goods or services, federal regulations require grant recipients to report that they have developed standards for awarding contracts. Federal regulations for these contract standards are contained in Appendix C. The CDE will evaluate the use of these standards during its monthly review of grantee expenditures, and may request to see the grantee's contracting standards at any time. Costs associated with contracts **not** negotiated in accordance with federal regulations will be disallowed.

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- **Organizational and Governance Documents**
  Upon notification of award, grantees must certify that the following documents are on file at its business offices: organizational charts, signed articles of incorporation, and any other organizational and governance documents of the agency.

- **Student Enrollment Report**
  The grant recipient must submit an enrollment report, verified by its charter authorizer. This verification can be provided by a CBEDS report or by a signed statement from the authorizer. The amount of this grant payment will be based on the level of enrollment. If the school has not reached the enrollment projected in the grant application by the end of the grant project period, grant award will be reduced accordingly.

- **Staff Verification Report**
  Grant recipients must submit a report of teachers hired adhering to NCLB "highly-qualified teacher" standards for core academics. More information about "highly-qualified teacher" standards may be found at http://www.cde.ca.gov/nclb/sr/tq. Grant recipients must report that all staff have cleared health (e.g., fingerprinting, tuberculosis) and criminal background checks.

- **Western Association of Schools and Colleges (WASC) Accreditation**
  Proof of Interim or candidacy accreditation from the WASC is required of all grantees by the end of the first year of operation.

- **Statewide Standardized Testing**
  Grant recipients must participate annually in all state standardized testing programs required by state law.

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Application Instructions

The online application form allows applicants to save draft versions of the application and to make edits. Once the application is submitted as final, edits are no longer possible. By submitting the application the applicant agrees to be accountable for, and to abide by, the terms, conditions, and definitions of the PCSGP.

The application may be submitted once an SBE number has been obtained. In addition to the online application, an electronic version of the approved charter should be submitted to PCSGP-APPS@cde.ca.gov.

The online application requires the applicant to provide identifying information about the charter school, contact information, location where a description of required information is contained in the approved charter and attachments, and a budget for the first year of grant project expenditures. Only the language contained in the approved charter, its attachments, and/or Memorandum of Understanding will be scored. Please refer to the rubric in Appendix K for how scores will be determined.

Applicants should note that the final score of an application is intended to indicate:

- How well the charter school matches the goals and priorities of the federal CSP and the PCSGP, both of which are significantly weighted in the rubric.
- The capacity of the applicant to ensure that the charter school achieves its goals and objectives.

If the approved charter does not sufficiently explain how the charter school will meet each of the application criteria, the applicant may resubmit a revised application that contains material revisions to the approved charter that better address the criteria of the PCSGP.

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Project Narrative Criteria to be addressed:

1. The likelihood that the school's education program, including goals and objectives, curriculum and instructional strategies, assessment, and evaluation will result in increased student academic performance as measured by the State's standardized testing program and by the school meeting AYP under NCLB. (40 points)
2. The likelihood that the management plan, which describes governing board capacity, organizational structure, roles and responsibilities, and data driven decision-making to create, support, and sustain a high quality charter school. (30 points)
3. The school's plan to serve students who reside in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under NCLB and has a state API rank of 1 or 2. (20 preference points)
4. The majority of the school's enrollment will be secondary students that meet the above preference. (10 preference points) (This element is not included in the rubric and will be automatically awarded to qualifying applicants.)

The CDE may require an oral interview of members of the non-profit governing board. The interview may be used to determine the final score of the application using the rubric specified in Appendix I.

The budget will not be scored but it must be included in the application. Only the first year of expenditures, by quarter, should be entered in the budget sheet provided in the online application. Grantees will be required to submit additional budgets during the grant project period for the second and third years of funding.

All budget line items should contain enough detail for the CDE to understand how funds will be used, such as the level of effort of employees and contractors and the volume/unit cost of supplies and equipment, and how ongoing costs, if charged to the grant, will be sustained at the conclusion of the grant project period. The CDE may

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require grantees to amend or modify their budgets if they contain unreasonable or non-allowable costs under federal guidelines, as determined by the CDE.

Notes:

- Grant funds cannot be used for fundraising or for the purchase of land or facilities.
- Construction and remodeling expenses are limited to bringing a facility up to code or into compliance with the Americans with Disabilities Act, or when they relate to a specific educational program of the school.

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Appendix A

Definitions of PCSGP Terms

Admissions Criteria: see Public Random Drawing

Approved Charter: A charter petition that has been approved by an authorizing entity for a public school in California. Formal minutes of the authorizing entity document the approval of the charter petition.

Authorized Agent: President of the non-profit entity, or superintendent of local education agency applying for funds. The authorized agent must verify and sign all official documents related to the grant award.

Authorizing Entity: A California school district, county office of education, or the State Board of Education (SBE) that has approved a charter petition, directly or on appeal.

Charter School: A charter school is a public school that provides instruction in any grades kindergarten through 12 grades and is approved by an authorized public chartering agency as a charter school under the provisions of *Education Code* Section 47600 et. seq.

Charter Network Developer: A PCSGP-eligible charter network developer is a non-profit entity that develops multiple charter schools based on a successful charter school model.

Conflict of Interest: see Appendix I. Charter school and non-profit, public benefit corporation board members are regarded as governmental representatives and are subject to provisions of the Fair Political Practices Act and federal regulations found in 34 *Code of Federal Regulations* 75.525.

Conversion School: A conversion school is a traditional public school that converts to charter status under the processes established in *Education Code* sections 47605, 52055.5, 52055.55, or 52055.650. Conversion schools in Program Improvement Year 4 must abide by Appendix F.

Direct-Funded: Direct-funded is a funding designation under which charter schools receive funds and apply for grants independently from an LEA. A charter school annually selects its funding status via the Funding Survey distributed by the California Department of Education (CDE). (Also see **Locally-Funded**.)

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High Quality: A high quality charter school is a school that has achieved NCLB Adequate Yearly Progress (AYP) goals, has minimally obtained Candidacy* or Interim Accreditation* status in the Western Association of Schools and Colleges (WASC) accreditation process, and whose current annual independent audit contains no material exceptions or deficiencies.

Locally-Funded: Locally-funded is a funding designation that provides funding for charter schools through an LEA. Charter schools can annually select their funding status. (Also see **Direct-funded**.)

Lottery: See Public Random Drawing

Newly established Charter School: For purposes of the PCSGP, a newly established charter school is defined as a charter school that has not operated as a private school or under another SBE number, **and** has been in operation as a charter school for no more than one school year. Education Code section disallows the conversion of private schools to charter schools. Existing charter schools acquiring a new charter-authorizing entity are not eligible for PCSGP grant funds.

Non Site-Based: Non site-based instruction occurs when a school does not require the attendance of its pupils to be at the school site under the immediate supervision and control of an employee of the school for a minimum of 80 percent of the annual required instructional time.

Public Random Drawing (also refer to Appendix I: CSP Non Regulatory Guidance): A lottery is a random selection process by which students are admitted to the charter school. Federal legislation requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Charter schools cannot create separate lottery pools for any purpose, including the desire to ensure balance in areas such as gender, disabilities, languages, nationality and poverty.

A school seeking to avoid any imbalance in its student population should do so through its recruitment efforts. However, recruitment must be conducted in a manner that does not discriminate against students by race, color, national origin, religion, or sex, or against students with disabilities. Rather, the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs.

Weighted lotteries (lotteries that give preference to one set of students over another) are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Protection Clause of the Constitution, or applicable state law, but even weighted lotteries must be conducted within the framework of a single lottery.

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Reconfiguration: Reconfiguration involves changes that often affect multiple schools. This may include school closures, school mergers, the opening of newly established charter schools, and the redrawing of attendance areas. Reconfigurations that affect or involve PI schools may result in the removal of the PI designation of the school. **For PCSGP purposes, only reconfigured schools that maintain PI status are eligible for PCSGP awards.**

Restructured School: Under NCLB, a restructured school in PI Years 4-5 refers to changes made at a PI school that reorganizes the staffing, governance, or other aspects of the school but maintains the school intact as an entity, with the same student population, usually located at the same school facility and with the same school code. A restructured school, including a PI school converted to a charter school, will continue to retain its designation as a PI school and will exit PI only when the school has made AYP for two consecutive years.

Secondary school or students: A secondary school is a school that is composed of any combination of seventh through twelfth grades. A secondary student is any student enrolled in grades seven through twelve. A PCSGP applicant may be eligible for preference points if a majority of its students are in secondary grades.

Single Audit: Federal law requires that all non-federal entities expending $300,000 or more in **combined** federal funds (e.g., PCSGP and Title I funds), obtain and submit to the Federal Audit Clearinghouse a federal Single Audit. PCSGP recipients required to file federal Single Audits must submit a copy of the reporting package to the CDE Charter Schools Division as a PCSGP performance benchmark. Further information may be found at http://www.harvester.census.gov/sac/sainfo.

Site-based: Site-based programs provide educational activities that are under the immediate supervision and control of an employee of the charter school, and require that a minimum of 80 percent of annual instructional time is taking place at the school site. (Also referred to as Classroom-based.)

Weighted Lottery: (see **Random Public Drawing**)

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Appendix B

PCSGP Allowable Expenses
California Cost Codes

Purpose

The purpose of the PCSGP is to plan and open high quality charter schools throughout California, and to share best practices developed within existing high quality charter schools with other charter and traditional public schools. All grant expenditures must support these overarching goals.

General Federal Guidelines

The PCSGP is federally funded and must adhere to all applicable federal law and regulations. General guidance regarding allowable expenses for federal grant funds may be found on Office and Management and Budget (OMB) Circular A-87. It is located on the OMB Web page at http://www.whitehouse.gov/omb/circulars. Of particular interest to PCSGP applicants is the prohibition of using federal grant funds for fundraising, civil defense, legal claims against the state or federal government, and contingencies. Further federal regulations expressly prohibit the acquisition of facilities and construction (*Code of Federal Regulations* 34 § 76.533).

California Account Codes

1000 - Certificated Personnel Salaries
Salaries for credentialed teachers, school administrators, librarians, counselors, and school nurses.

2000 - Classified Personnel Salaries
Salaries for non-credentialed administrators and managers, teachers' assistants, clerical staff, custodians, cooks, bus drivers, maintenance workers and others.

3000 - Employee Benefits
Benefits such as retirement (PERS or STRS), Social Security and Medicare, health and welfare benefits, unemployment insurance, workers compensation insurance, and other offered benefits.

4000 - Books and Supplies (Per unit cost under $5000)
Costs for textbooks, instructional materials, office supplies, custodial supplies, food service supplies, gas and oil for buses, and shipping fees to receive them.

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5000 - Services and Other Operating Expenditures
Costs for consultants, services contracts, facility rent or lease, maintenance contracts, dues, travel, insurance, utilities, attorney fees, and audit fees.

6000 - Capital Outlay (Purchase of real estate, i.e. buildings/property, is not allowable) (Per unit cost over $5000 or put in text)
Cost of site improvements and remodeling for bringing a facility up to code, making it compliant with the Americans with Disabilities Act, or directly tied to a specific educational program.

7000 - Other Outgo
Costs of tuition and fees to other entities, transfers of money to other funds or programs such as Special Education or Regional Occupational Centers and Programs (ROCP), and transfers to other districts or Joint Powers Agreements (JPAs). Federal law disallows Indirect Cost Rate fees as a PCSGP expense.

For more information regarding California Account Codes, please refer to the California School Accounting Manual (CSAM) for guidance at: http://ww.cde.ca.gov/fg/ac/sa/.

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Appendix C

Contract Standards

PCSGP recipients must develop and use a written contract administration system that conforms to applicable federal and state standards when awarding contracts with federal Public Charter Schools Grant Program (PCSGP) funds. All grant recipients are required to keep on file the contract standards they develop.

A component of CDE's grant-monitoring site visit program is to review the charter school's process of awarding and administering contracts, including the contracts themselves. Contracts awarded in violation of federal and state standards may **not** be eligible for PCSGP reimbursement.

Below are the federal regulations governing contracts. California *PCSGP* recipients are "sub recipients" for the purposes of these regulations.

34 *Code of Federal Regulations* 80.36

(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contracts administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic

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value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only:

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information

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regarding the protest to the awarding agency. A protestor must exhaust all administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 80.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

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(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed--(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 80.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be resent:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

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(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

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(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 80.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

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(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contracts price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contracts.

(3) A payment bond on the part of the contractor for 100 percent of the contracts price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contracts.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require

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changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with sections 103 and 107 of the Contracts Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contracts.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contracts for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (contracts, subcontracts, and subgrants of amounts in excess of $100,000)

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(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

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Appendix D

Equipment and Supplies Standards

Public Charter Schools Grant Program (PCSGP) recipients must follow federal regulations when purchasing, using, and disposing of grant project equipment and supplies.

- "Equipment" is defined as tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.
- "Supplies" are defined as all tangible personal property other than equipment. (34 *Code of Federal Regulations* 80.3)

A requirement of the California Department of Education's PCSGP grant-monitoring program is to verify that the equipment, supplies, and related records of grant recipients are in compliance with federal regulations.

PCSGP recipients are "subgrantees" for the purposes of these regulations.

34 *Code of Federal Regulations* 80.32

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 80.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

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(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) Federal equipment. In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

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(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 80.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

(h) The provisions of paragraphs (c), (d), (e), and (g) of this section do not apply to disaster assistance under 20 U.S.C. 241-1(b)-(c) and the construction provisions of the Impact Aid Program, 20 U.S.C. 631-647.

34 *Code of Federal Regulations* 80.33

(a) Title. Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) Disposition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

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Appendix E

Financial Management Standards

Public Charter Schools Grant Program (PCSGP) recipients are required to adhere to federal regulations when developing and using a financial management system to administer federal PCSGP funds. A requirement of the California Department of Education's grant-monitoring program is to verify that the financial management systems of grant recipients is in compliance with federal regulations.

PCSGP recipients are "subgrantees" for purposes of these regulations.

34 *Code of Federal Regulations* 80.20

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

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(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contracts and subgrant award documents, etc.

(7) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

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Appendix F

No Child Left Behind Title I, Part A
Program Improvement School Contracts
Required Elements

Charter schools restructuring from traditional public schools in Program Improvement, Year 4, under Title I, Part A of the No Child Left Behind Act of 2001 must retain the services of a technical assistance provider that has previous experience and success in working with the same student population served by the grant recipient school.

All contracts awarded with federal funds must adhere to the guidelines presented in Appendix C. In addition, the following are specific elements that must be included:

- Assistance to grant recipients to ensure the involvement of parents, teachers, and community members in the development of the charter petition and program design of the school through surveys, community meetings, and other means. Activities must include surveys and community meetings scheduled at times convenient to parents.

- Assistance to grant recipient in identifying and implementing an educationally sound, standards-based educational program targeted to the specific student population of the school. The educational program must directly support the educational goals, objectives and measurable pupil outcomes delineated in the school's charter petition.

- Assistance to grant recipient in identifying and implementing an effective staffing structure and professional development program that will support the achievement of the educational goals, objectives and measurable pupil outcomes delineated in the school's charter petition.

- Assistance to the grant recipient in identifying and implementing an effective governance structure for the school, including a process to ensure parent involvement that is aligned with the governance structure delineated in the charter petition.

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Appendix G

PUBLIC CHARTER SCHOOLS GRANT PROGRAM
Assurances and Certifications
(Do not return any of these forms with application)

Public Charter Schools Grant Program
Specific Assurances

The signatures of the authorized agents on the Certificate of Award and Assurances form acknowledge that these specific and general assurances will be observed.

1. This grant shall be administered in accordance with the provisions of California law regarding charter schools and Title X, Part C of the *Improving America's Schools Act of 1994*. Expenditures shall comply with all applicable provisions of federal and state regulations and policies relating to the administration, use and accounting for public school funds. Any interpretations of law, regulations and procedures shall be the sole responsibility of the California Department of Education (CDE).

2. The CDE reserves the authority to require the repayment of received funds, the return of all unused funds, and/or the termination of the grant if the grant recipient fails to meet the terms of this agreement, fails to meet established deadlines, or fails to act in good faith to carry out the activities described in the grant proposal.

3. The charter school or charter developer agrees to use the funding in a manner consistent with their applications as submitted, or as revised and approved by the CDE.

4. The grant recipient agrees to fulfill the performance benchmarks specific to its grant type and submit timely financial and status reports. Failure to do so could result in the forfeiture of the grant and repayment of funds.

5. The grant recipient agrees to cooperate with the U.S. Department of Education, the CDE, the Secretary of Education, and their independent contractors, if any, to conduct any external evaluation of the effectiveness of the grant process.

6. Auditable records will be maintained on file for five years following the grant closing date.

7. The grant recipient's name will be used in all communications.

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General Assurances
California Department of Education

Discrimination

As the duly authorized representative of the applicant, I certify that the applicant will comply with all federal statutes relating to nondiscrimination, including (a) Title VI of the Civil Rights Act of 1964 (45 *United States Code* [*USC*] sections 2000d through 2000d-4) prohibiting discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (20 *USC* sections 1681-1683) prohibiting discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (20 *USC* Section 794) prohibiting discrimination on the basis of handicap; and The Age Discrimination Act (42 *USC* Section 6101, *et seq*.) prohibiting discrimination on the basis of age.

Costs

As the duly authorized representative of the applicant, I certify that the applicant will comply with the general cost principles set forth in federal regulations, 34 *Code of Federal Regulations* (*CFR*) Section 74.27 and 34 *CFR* Section 80.22, and the Office of Management and Budget circulars applicable to my entity.

I further certify that the applicant will comply with the expenditure requirements set forth in the federal Education Department Guidelines and Administrative Regulations (EDGAR) contained in Title 34 of the *CFR*.

Records

As the duly authorized representative of the applicant, I certify that the applicant will make reports to the state or federal agency designated in the application as may reasonably be necessary to enable those agencies to perform their duties. The applicant will maintain and provide access to all records used in the preparation of such reports for a period of five years. Such records shall include, but not be limited to, records which fully disclose the amount and disposition by the recipient of funds, the total cost of the activity for which the funds are used, the share of the cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activities for which the funds are used.

Applicable Law

As the duly authorized representative of the applicant, I certify that the applicant will comply with all state and federal statutes, regulations, program plans, and eligibility requirements applicable to each program under which federal and state funds are made available through the application.

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Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 *Code of Federal Regulations* Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled A Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	

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SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Certification Regarding State and Federal Drug-Free Workplace Requirements

Grantees Other Than Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *Code of Federal Regulations* (*CFR*) Part 85, Subpart F, for grantees, as defined at 34 *CFR* Part 85, Sections 85.605 and 85.610

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace
(2) The grantee's policy of maintaining a drug-free workplace
(3) Any available drug counseling, rehabilitation, and employee assistance programs
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency

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(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f)

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address. city, county, state, zip code)

Check **[ ]** if there are workplaces on file that are not identified here.

Grantees Who Are Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *CFR* Part 85, Subpart F, for grantees, as defined at 34 *CFR* Part 85, Sections 85.605 and 85.610

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction to every grant officer or designee, in writing, within 10 calendar days of the conviction. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

_____
NAME OF APPLICANT

_____
NAME OF PROJECT

_____
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

_____ _____
SIGNATURE DATE

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CERTIFICATION REGARDING LOBBYING

Applicants must review the requirements for certification regarding lobbying included in the regulations cited below before completing this form. Applicants must sign this form to comply with the certification requirements under 34 *Code of Federal Regulations* (*CFR*) Part 82, "New Restrictions on Lobbying." This certification is a material representation of fact upon which reliance was placed when this transaction was entered into.

As required by Section 1352, Title 31 of the *U.S. Code*, and implemented at 34 *CFR* Part 82, for persons entering into Federal contract, grant or cooperative agreement over $100,000, as defined at 34 *CFR* Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants and contracts under grants and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

_____
NAME OF APPLICANT

_____
PROJECT NAME

_____
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

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SIGNATURE DATE

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Appendix H

Education Department General Administrative Regulations For Appealing Decisions related to the PCSGP

34 *Code of Federal Regulations* Section 80.43 **Enforcement**

(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award whether stated in a federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions as appropriate in the circumstances:….

(3) wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

34 *Code of Federal Regulations* Section 76.783 **State educational agency action—subgrantee's opportunity for a hearing**

(a) A subgrantee may request a hearing if it alleges that any of the following actions by the State educational agency violated a State or Federal statute or regulation:

(1) Ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds; or

(2) terminating further assistance for an approved project.

(b) The procedures in Section 76.401(d)(2)-(7) apply to any request for a hearing under this section.

34 *Code of Federal Regulations* Section 76.401 (c) (d) (2)-(7)

(c) If an applicant for a subgrant alleges that any of the following actions of a State educational agency violates a State or Federal statute or regulation, the State educational agency and the applicant shall use the procedures in paragraph (d) of this section:

(1) Disapproval of or failure to approve the application or project in whole or in part.

(2) Failure to provide funds in amounts in accordance with the requirements of statutes and regulations.

(d) State educational agency hearing procedures.

(2) If the applicant applied under a program not listed in paragraph (a) of this section, the State educational agency shall provide an opportunity for a hearing either before or after the agency disapproves the application.

(3) The applicant shall request the hearing within 30 days of the action of the State educational agency.

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(4) (i) within 30 days after it receives a request, the State educational agency shall hold a hearing on the record and shall review its action.
(ii) No later than 10 days after the hearing the agency shall issue its written ruling, including findings of fact and reasons for the ruling.
(iii) If the agency determines that its actions was contrary to State or Federal statutes or regulations that govern the applicable program, the agency shall rescind its action.

(5) If the State educational agency does not rescind its final action after a review under this paragraph, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the State education agency of the results of the agency's review. If supported by substantial evidence, findings of fact of the State educational agency are final**.**

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Appendix I
Non-Regulatory Guidance
Title V, Part B
Charter Schools Program

The Charter Schools Program (CSP) was authorized in October 1994, under Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, 20 U.S.C. 8061-8067. The program was amended in October 1998 by the Charter School Expansion Act of 1998 and in January 2001 by the No Child Left Behind Act of 2001. The program, which provides support for the planning, program design, and initial implementation of charter schools, is intended to enhance parent and student choices among public schools and give more students the opportunity to learn to challenging standards. Enhancement of parent and student choices will result in higher student achievement, however, only if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of those choices, are available to all students. Every student should have an equal opportunity to attend a charter school.

The non-regulatory guidance addresses questions the Department has received regarding various provisions of the CSP statute, including those related to student admissions to charter schools, the use of lotteries, private school conversions, and the involvement of for-profit organizations in charter schools. The non-regulatory guidance also addresses how businesses, faith-based communities and other community-based organizations and individuals associated with them can be involved in the development and operation of charter schools. These guidelines do not contain all of the information you will need to comply with CSP requirements, but are intended to provide guidance on the CSP and examples of ways to implement it. For additional information about the CSP, please contact the Charter Schools Program office, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E116, Washington, D.C. 20202-5961. Telephone: (202) 260-1882.

General Provisions of the Charter Schools Program (CSP)

What is the purpose of the CSP?

The primary purpose of the CSP (Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB)), is to expand the number of high-quality charter schools available to students across the Nation by providing Federal financial assistance for charter school program design, initial implementation, and planning; and to evaluate the effects of charter schools, including their effects on students (in particular, on student academic achievement), staff, and parents. The program also encourages, through the use of funding priorities, the creation of strong charter school laws, in the States, that are designed to provide for the establishment of high-quality charter schools. An additional purpose (embodied in the “Per-Pupil Facilities Aid” portion of the program, which has not yet received funding) is to encourage States to provide support to charter schools

for facilities financing in amounts commensurate with the amounts they have typically provided for traditional public schools.

How does the statute define a charter school?

Charter schools are established according to individual State charter school laws. The enactment of State charter school laws is solely a State prerogative, and the definition of a "charter school" under State law is a matter of State policy. However, in order to receive CSP funds, a charter school must meet the definition in Section 5210(1) of ESEA, which is as follows:

"The term 'charter school' means a public school that:

In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph [the paragraph that sets forth the Federal definition];
Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
Provides a program of elementary or secondary education, or both;
Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
Does not charge tuition;
Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act;
Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program [the PSCP];
Meets all applicable Federal, State, and local health and safety requirements;
Operates in accordance with State law; and
Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school."

What new provisions enacted by NCLB affect the operation of the CSP?

NCLB amended the CSP in two key ways:

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NCLB amended the definition of “eligible applicant” under the CSP to eliminate the requirement that a charter school developer enter into a partnership with an authorized public chartering agency in order to qualify for a CSP start-up grant. Under the new legislation, an eligible applicant that is not a State Educational Agency (SEA) must (a) apply to an authorized public chartering agency for a charter; and (b) notify that agency of its application for CSP funds. The Secretary or the SEA may waive these requirements in cases where the eligible applicant is applying for a pre-charter planning grant or subgrant (ESEA § 5210(3); 20 U.S.C. 7221i(3)).

NCLB amended the CSP by adding a specific provision prohibiting local educational agencies (LEAs) from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant voluntarily enters into a mutually agreed upon arrangement for administrative services with the LEA (ESEA § 5204(f)(4)(B); 20 U.S.C. 7221c(f)(4)(B)). This provision puts into law, the Department’s interpretation of the Office of Management and Budget’s cost principles.

In addition to the provisions of Title V, Part B, Subpart 1 of ESEA, what other significant Federal statutory and regulatory authorities apply to the CSP?

Recipients of funds under this program should be aware of the following significant statutory requirements in addition to those in Title V, Part B, Subpart 1 (formerly Title X, Part C) of the ESEA: (a) the definitions set out in Title IX of ESEA, which establishes general provisions for all programs authorized under ESEA; (b) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin; (c) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability; (e) the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; (f) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability by public entities, including public charter schools and public school districts, regardless of whether they receive Federal financial assistance; and (g) Part B of the Individuals with Disabilities Education Act, which requires States to make available a free appropriate public education to children with disabilities. The Education Department General Administrative Regulations (EDGAR), Parts 75, 76, 77, 79, 80, 81, 82, 85, and 86 also apply to this program.

Eligibility and Use of Funds

Which SEAs are eligible to apply for a CSP grant?

SEAs in States with a specific State statute authorizing the establishment of charter schools are eligible to apply for CSP grants. An “eligible applicant” (defined as a charter school developer that has applied for a charter and notified the charter granting entity of its application for CSP funds) in such States may apply to the SEA for a subgrant.

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What if a State elects not to participate or does not have an application approved?

If a State elects not to participate in the CSP or is denied funding, an eligible applicant may apply directly to the Department for a grant. Charter schools located in States that have not enacted charter school legislation do not qualify as eligible applicants (ESEA § 5210(1)(A), 5202(a) and (b); 20 U.S.C. 7221i(1)(A)).

May the Secretary or the SEA waive any eligibility or application requirements?

Although the statute permits a charter school to apply for and receive (from the Secretary or the SEA, as the case may be) waivers of statutory and regulatory requirements, it prohibits waivers of any requirement relating to the elements of a "charter school," as defined in section 5210(1) of ESEA. As stated in A-3 above, however, in the case of an application for a pre-charter planning grant, the Secretary or the SEA may waive the requirements that an eligible applicant (a) apply for a charter; and (b) notify the charter granting entity of its CSP application. In accordance with section 5204(e), the eligible applicant must request the waiver in its CSP application.

How may CSP grant funds be used?

SEAs may use CSP funds to award subgrants to charter schools in the State, and charter schools may use the funds only for post-award planning and design of the educational program, and for initial implementation of a charter school. Planning and implementation grants may be awarded for a period of up to three years, with no more than 18 months used for planning and program design, and no more than two years used for initial implementation of the charter school. SEAs may also reserve up to 5 percent of CSP grant funds for administrative expenses related to operating the charter school grant program, and up to 10 percent of their CSP grant funds to support dissemination activities. These dissemination activities are carried out through separate dissemination grants to charter schools and may be awarded for a period of up to two years.

What are dissemination grants?

Dissemination grants are awarded to charter schools to support activities that help open new public schools (including public charter schools) or share the lessons learned by charter schools with other public schools. The following activities may qualify as dissemination activities: (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and its developers and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools designed to improve student performance; (c) developing curriculum materials, assessments, and other materials that promote increased student

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achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

Who is eligible to apply for a dissemination grant?

A charter school may apply for a dissemination grant, regardless of whether it has applied for or received a planning or implementation grant under the CSP, if the charter school has been in operation for at least three (3) consecutive years and has demonstrated overall success, including the following: (a) substantial progress in improving student achievement; (b) high levels of parent satisfaction; and (c) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. For more information about dissemination grants, see section 5204(f)(6) of ESEA, 20 U.S.C. 7221c(f)(6).

What are some limitations on the use of dissemination funds?

Like all Federal grants, CSP dissemination grants must be used in accordance with statutory and regulatory requirements. A charter school may not use dissemination grant funds, either directly or through a contractor, for marketing or recruitment activities designed to promote itself or the programs offered by it or by a contractor to parents or the community. In particular, grant funds may be used to develop materials documenting successful practices of the charter school for the educational purpose of assisting other public schools in improving student achievement, but not for the purpose of recruiting students or promoting the program of the school or its contractor. Any charter school receiving a dissemination grant should provide thorough and high-quality information that meets the needs of other schools trying to learn from the charter school's experience.

Is a private school eligible to receive CSP funds?

No, only charter schools that meet the definition of a "charter school" under ESEA are eligible to receive CSP funds. Section 5210(1) defines a charter school as, among other things, a "public school" that is created by a developer as a public school, or adapted by a developer from an existing public school, and operated under public supervision and direction (§ 5210(1)(B) of ESEA).

Is a private school that converts to charter status eligible to receive CSP funds?

As stated in B-8 above, the statute defines a charter school as a newly created public school or one adapted from an existing public school. There is no provision or mechanism in the law that recognizes conversions of private schools into public charter schools. On the other hand, the statute does not prevent a newly created public school

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from using resources previously used by a closed private school or from involving the parents and teachers who may have been involved in the closed private school.

It should be noted, however, that any newly created public school must be just that; it cannot be a continuation of a private school under a different guise. The public charter school must be separate and apart from any private school. It must be established as a public school, and comply with applicable State and Federal laws regarding public schools. In its creation, development, and operation, the charter school must not have any affiliation “with a sectarian school or religious institution” (§ 5210(1)(E) of ESEA). Because a newly created public school would not have any "previously enrolled" students, all students would need to apply for admission and would have to be selected by lottery if there are more applicants than spaces available. Similarly, the charter school must inform the community of its public school status and have a fair and open admissions process.

Is a for-profit entity that holds a legal charter eligible to apply for a grant or subgrant?

A for-profit entity does not qualify as an eligible applicant for purposes of the CSP. A charter school receiving CSP funds may, however, enter into a contract with a for-profit entity to have the for-profit entity manage the charter school on a day-to-day basis. The charter school also must supervise the administration of the CSP grant and is directly responsible for ensuring that grant funds are used in accordance with statutory and regulatory requirements. (See EDGAR, Part 75, Subpart F.)

Lottery, Recruitment, and Admissions

What is a lottery for purposes of the CSP?

A lottery is a random selection process by which applicants are admitted to the charter school.

Under what circumstances must a charter school use a lottery?

A charter school receiving CSP funds must use a lottery if more students apply for admission to the charter school than can be admitted. A charter school with fewer applicants than spaces available does not need to conduct a lottery.

Are weighted lotteries permissible?

Weighted lotteries (lotteries that give preference to one set of students over another) are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Protection Clause of the Constitution, or applicable State law.

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In addition, a charter school may weight its lottery in favor of students seeking to change schools under the public school choice provisions of ESEA Title I, for the limited purpose of providing greater choice to students covered by those provisions. For example, a charter school could provide each student seeking a transfer under Title I with two or more chances to win the lottery, while all other students would have only one chance to win.

May a charter school exempt certain categories of applicants from the lottery and admit them automatically?

A charter school that is oversubscribed and, consequently, must use a lottery, generally must include in that lottery all eligible applicants for admission. A charter school may exempt from the lottery only those students who are deemed to have been admitted to the charter school already and, therefore, do not need to reapply.

Specifically, the following categories of applicants may be exempted from the lottery on this basis: (a) students who are enrolled in a public school at the time it is converted into a public charter school; (b) siblings of students already admitted to or attending the same charter school; (c) children of a charter school's founders (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment); and (d) children of employees in a work-site charter school (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). When recruiting students, charter schools should target all segments of the parent community. The charter school must recruit in a manner that does not discriminate against students of a particular race, color, national origin, religion, or sex, or against students with disabilities; but the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs. Once a student has been admitted to the charter school through an appropriate process, he or she may remain in attendance through subsequent grades. A new applicant for admission to the charter school, however, would be subject to the lottery if, as of the application closing date, the total number of applicants exceeds the number of spaces available at the charter school.

May a charter school create separate lottery pools for girls and boys, in order to ensure that it has a reasonably equal gender balance?

No, the legislation requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Therefore, a charter school receiving funds under the program is precluded from holding separate lotteries for boys and girls. Nor may a school weight its lottery in favor of one gender over another. A school seeking to avoid gender imbalance should do so by targeting additional recruitment efforts toward male or female students.

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May a tuition-based private preschool program that becomes a public charter school at the kindergarten level permit children enrolled in the preschool program to continue in the elementary program without going through a lottery process?

No, because the preschool program is private, charges tuition, and most likely does not admit all students, allowing its students to gain admission to the elementary program without going through a lottery process would violate the statute. Therefore, all applicants to the charter school (the elementary program) would have to be selected by lottery if there are more applicants than there are spaces available.

However, the statute does not preclude an elementary charter school in this type of situation from holding its lottery a few years early – e.g., when students are ready to enroll in the preschool. Under this approach, the charter school would have an affirmative responsibility to inform prospective applicants that winning the lottery would not require them to enroll in the private preschool. Thus, any child selected through the lottery would be guaranteed a slot in kindergarten, a few years later, whether or not she or she enrolls in the preschool program.

Additionally, given the high mobility of children and families, schools that choose to exercise this option should ensure that families new to the area or who were not aware of the previous lottery are given the opportunity to apply for admission. Such actions must meet the admissions requirements of the CSP and might include holding a second lottery to fill vacancies created by normal attrition or failure of early lottery winners to enroll in the charter school.

May a charter school receiving its final year of CSP funds select students for the next school year (when the school will not be receiving program funds) without using a lottery?

A charter school receiving its final year of CSP funds may select students for the upcoming school year without using a lottery, provided that the school obligates all funds under its CSP grant before those students actually enroll in the school. If the school has carry-over funds or extends its grant period, then it must continue to meet all program requirements, including the requirement to hold a lottery if it receives more applications for enrollment than it can accommodate for the upcoming school year.

In addition to Title V, Part B, Subpart 1 of the ESEA, what other statutory or regulatory authorities should a charter school consider when developing its admissions policies?

To be eligible for Federal start-up grants, a charter school's admissions practices must comply with State law and applicable Federal laws. Exemptions from enrollment lotteries are permissible only to the extent that they are consistent with the State's charter school law, other applicable State law, the school's charter, and any applicable

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Title VI desegregation plans or court orders requiring desegregation. A charter school's admissions practices must also comply with Part B of the Individuals with Disabilities Education Act and Federal civil rights laws, including, but not limited to, Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, as applicable.

What are a charter school's responsibilities with regard to outreach and recruitment?

Section 5203(b)(3)(I) of ESEA requires CSP applicants to inform students in the community about the charter school and to give each student "an equal opportunity to attend the charter school" (20 U.S.C. 7221b(b)(3)(I)). Further, section 5203(b)(3)(E) requires charter schools receiving CSP grants or subgrants to involve parents and other members of the community in the planning, program design, and implementation of the charter school. 20 U.S.C. 7221b(b)(3)(E).

May a charter school receiving CSP funds set minimum eligibility criteria for admission to the charter school?

The ESEA does not specifically prohibit charter schools from setting minimum qualifications for determining who is eligible to enroll in a charter school and, thus, to be included in the lottery. As stated above, however, charter schools receiving CSP funds must inform students in the community about the charter school and give them an "equal opportunity to attend the charter school."

Thus, a charter school funded under the CSP may set minimum qualifications for admission only to the extent that such qualifications are: (a) consistent with the statutory purposes of the CSP; (b) reasonably necessary to achieve the educational mission of the charter school; and (c) consistent with civil rights laws and Part B of the Individuals with Disabilities Education Act. CSP grantees should consider using program funds to assist "educationally disadvantaged" and other students to achieve to challenging State content and performance standards.

Involvement of Religious and Community-Based Organizations With Charter Schools

May a charter school be religious in nature?

No. As public schools, charter schools must be non-religious in their programs, admissions policies, governance, employment practices and all other operations, and the charter school's curriculum must be completely secular. As with other public schools, charter schools may not provide religious instruction, but they may teach about religion from a secular perspective. And though charter schools must be neutral with respect to religion, they may play an active role in teaching civic values. The fact that some of these values are also held by religions does not make it unlawful to teach them

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in a charter school. Furthermore, as discussed below, faith-based and religious organizations can be involved with charter schools in many ways, and religious expression by students is allowed in charter schools to the same extent as in other public schools. See also the Department's guidance on Constitutionally protected prayer in public elementary and secondary schools of ESEA, available at http://www.ed.gov/policy/gen/guid/religionandschools/index.html.

May charter schools use public funds to support religious programs or activities?

No. All activities of a charter school must be non-religious, as is the case for all public schools. Public funds may not be used for religious purposes or to encourage religious activity. In addition, even if funded by non-public sources, religious activity may not be conducted, promoted, or encouraged during charter school activities by charter school employees or by other persons working with charter schools. However, to the extent that their involvement promotes academic learning and the mission of the charter school, religious organizations and their members may partner with and be involved with charter schools so long as the charter school's decision to partner with the religious organization is made without regard to the religious character or affiliation of the organization and is not otherwise reasonably perceived as an endorsement of religion.

May charter schools enter into partnerships with religious organizations to provide secular services?

Yes. Like other public schools, charter schools may enter into partnerships with community groups for secular purposes, such as tutoring or recreational activities. Religious groups may be partners for these types of activities so long as charter schools select partners without regard to their religious affiliation, ensure that no public funds are used for religious purposes, and do not engage in or encourage religious activity. Charter schools may not limit participation in the partnership to religious groups or certain religious groups, and they may not select students or encourage or discourage student participation with particular partners based on the religious or secular nature of the organization.

May charter schools use the facilities of a religious organization?

Yes. A charter school may use the facilities of a religious organization to the same extent that other public schools may use these facilities. Generally, this means that a charter school may lease space from a religious organization so long as the charter school remains non-religious in all its programs and operations. Most importantly, a landlord affiliated with a religion may not exercise any control over what is taught in the charter school.

May charter schools conduct outreach activities in churches or through religious organizations?

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Yes. A charter school's outreach and recruitment activities should be designed to reach all segments of the parent community. Thus, a charter school may conduct outreach or recruitment activities in churches or through religious organizations as part of a broad-based and balanced effort to inform parents in the community about the charter school and to recruit a diverse student body.

Can community-based organizations and business entities play a role in charter schools?

Yes. Community-based organizations and businesses can play a positive role in creating and supporting charter schools. Examples of ways in which non-religious organizations can get involved in charter schools include helping to plan or design a new school, developing curriculum and assessment strategies, serving on governing boards, participating in the day-to-day management of charter schools, establishing partnerships with charter schools, and even creating work-site charter schools. A broad range of community-based organizations and businesses are currently involved with charter schools, including plastics and automobile manufacturers; hospitals, museums, and homeless shelters; and courts and social service agencies. Like all charter schools, charter schools operated by or affiliated with community-based organizations or business entities must be public schools of choice, must be non-religious, and must operate in a nondiscriminatory manner.

Administrative and Fiscal Responsibilities

What are the administrative and fiscal responsibilities of a charter school grantee under the CSP?

Charter schools receiving CSP grants must comply with applicable statutes, regulations, and approved applications; and must use Federal funds in accordance with those statutes, regulations, and applications. Grantees must directly administer or supervise the administration of the project, and must use fiscal control and fund accounting procedures that ensure proper disbursement of, and accounting for, Federal funds. 34 *CFR* 75.700-75.702.

What are the rules governing "conflicts of interest" in the administration of CSP grants?

CSP grantees must avoid apparent and actual conflicts of interest when administering grants. Department regulations at 34 *CFR* 75.525(a) prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family member; and (b) the person is a public official or has a family or business relationship with the grantee. Section 75.525(b) provides further that a person may not participate in a project to use his or her position for a purpose that is – or gives the appearance of being – motivated by a desire for a private or financial gain for that person or for others. 34 *CFR* 75.525.

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What procedures must a CSP grantee follow in order to avoid a "conflict of interest" when purchasing equipment or services?

When using Federal funds to enter into a contract for equipment or services, a charter school must comply with the procurement standards set forth in the Department's regulations at 34 *CFR* 74.40-74.48. Those standards require Federal grant recipients to develop written procurement procedures and to conduct all procurement transactions in a manner to provide, to the maximum extent possible, open and free competition. No employee, officer, or agent of the charter school may participate in the selection, award, or administration of any contract supported by Federal funds if a real or apparent conflict of interest exists. 34 *CFR* 74.42-74.44.

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Appendix J
Precharter Grant Application Rubric

The application will be scored using the rubrics below. A numerical score ranging from 0 to 4 will be applied to the response for each criterion. This score will be applied to a factor to calculate the total percentage points earned. A score of 2 in any area renders the application ineligible for funding

- **4 points: Excellent.** There are major strengths contained in the response to the criteria. This score applies to a response that can be overall characterized as very likely to lead to the development of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **3 points: Good**. Strengths outweigh weaknesses. This score applies to a response that contains a number of strengths. There are weaknesses but, neither singly or collectively, are they likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **2 points: Fair.** Some important weaknesses. This score applies to a response that contains some strengths, but some weaknesses are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 2 in any area renders the application ineligible for funding

- **1 point:** Inadequate/Unsatisfactory. Major weaknesses outweigh any strengths. This score applies to a response that contains a number of weaknesses that are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

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Precharter grant application criteria:

The capacity and resources of the applicant to successfully open and operate a high quality charter school that meets the goals of the PCSGP. (40 points)

The applicant has provided evidence that the board of the nonprofit entity has knowledge and success in organizational leadership and public education, and has submitted an application that describes:

1. How grant funds will be used to develop and submit an approved charter.
2. Rigorous, relevant, and attainable student achievement outcomes for all students attending the school.
3. The use of data to establish, evaluate, and improve the education program and school policies.
4. Effective practices for the oversight of finances.

The level of community and parent support for the proposed school. (30 points)

The applicant describes coordinated partnerships with parents and the community that will contribute to student learning, communication, school governance, school resources, and diversity.

The proposed school will be located in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act and has an API state ranking of 1 or 2. (20 preference points) (These points will be automatically assigned to qualifying applications.)

The majority of the proposed school's enrollment will be secondary students who qualify for the above preference points. (10 preference points) (These points will be automatically assigned to qualifying applications.)

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Appendix K
Planning and Implementation Grant Rubric

The information provided in the approved charter will be scored using the rubrics below. A numerical score ranging from 0 to 4 will be applied to the response for each criterion. This score will be applied to a factor to calculate the total percentage points earned. A score of 1 or 2 in any area renders the application ineligible for funding.

- **4 points: Excellent.** There are major strengths contained in the response to the criteria. This score applies to a response that can be overall characterized as very likely to lead to the development of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **3 points: Good**. Strengths outweigh weaknesses. This score applies to a response that contains a number of strengths. There are weaknesses but, neither singly or collectively, are they likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **2 points: Fair**. Some important weaknesses. This score applies to a response that contains some strengths, but some weaknesses are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 2 in any area renders the application ineligible for funding

- **1 point: Inadequate/Unsatisfactory**. Major weaknesses outweigh any strengths. This score applies to a response that contains a number of weaknesses that are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 1 in any area renders the application ineligible for funding.

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Planning and Implementation grant application criteria:

The likelihood that the school's education program, including goals and objectives, curriculum and instructional strategies, assessment, and evaluation will result in increased student academic performance as measured by the State's standardized testing program and achieving Adequate Yearly Progress under NCLB. (40 points)

The approved charter comprehensively describes:

1. A rigorous, relevant, and attainable education program for all students (including high and low achievers, English learners, and special education students), including a standards-based curriculum, instructional strategies, materials, and technology aimed at the targeted population, that is founded on cited research-based educational practices, and is compliant with all laws and regulations applicable to California's charter schools.
2. The approved charter describes a comprehensive plan for faculty recruitment, hiring and retention of highly qualified teachers with subject area knowledge that is likely to support student achievement and collaborative learning for all students.
3. The approved charter identifies measurable student outcomes for all students including high and low achievers, special education students, and English learners, and describes the effective use of data to establish, evaluate, and improve policies and progress toward identified student outcomes.
4. The approved charter describes policies and procedures that are likely to promote effective communication between parents and teachers, administrators, and counselors.
5. The approved charter describes how parents will be involved in the planning, program design and implementation of the charter school.

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The likelihood that the management plan, which describes governing board capacity, organizational structure, roles and responsibilities, and data driven decisions, will create, support, and sustain a high quality charter school. (30 points)

The approved charter describes:

1. A governing board that has knowledge and success in organizational leadership and public education, including professional experience relevant to the focus and mission of the educational program of the school.
2. A governance structure that is free from conflicts of interest, has clear lines of authority, and internal fiscal controls.
3. Differentiated roles and responsibilities for board members and staff.
4. The use of data to establish, evaluate, and improve the education program and school policies.
5. Effective practices for the oversight of finances.
6. Recruitment and admissions policies and procedures (including a description of the process for a public random drawing when admissions applications exceed the enrollment capacity of the school) that are in compliance with state **and** federal law. (See appendices.)

The school's plan to serve students who reside in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act and has an API state ranking of 1 or 2. (20 preference points)

If applicant is applying for preference, the approved charter comprehensively describes programs, policies, and strategies for recruiting, enrolling, and retaining and enrollment consisting of a majority of students who meet this preference criterion.

The majority of the school's enrollment will be secondary students who qualify for the above preference points. (10 preference points) (These points will be automatically assigned to qualifying applications.)

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State of California **Department of Education**

ITEM ADDENDUM

DATE: July 11, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William J. Ellerbee, Deputy Superintendent
School and District Operations Branch

RE: Item No. 22

SUBJECT: 2007-2010 Federal Public Charter Schools Grant Program Request for Applications

Item 22 requests approval of the Request for Applications (RFA) for the California Public Charter Schools Grant Program. This Item Addendum provides an updated RFA that contains technical changes to the definition of "Public Random Drawing" (see pages 24-25 and 55-58). The changes were made as a result of new federal non-regulatory guidance provided on July 2, 2007. The changes will impact how a school applying for a grant must configure the public random drawing that must be held if the school's enrollment demand exceeds its capacity.

In addition, there were some minor formatting errors that inadvertently resulted when the RFA was incorporated in the original agenda item. Those errors have been corrected.

Attachment 1: Revised Draft 2007-2010 Public Charter Schools Grant Program Request for Applications (66 Pages)

REQUEST FOR APPLICATIONS

PUBLIC CHARTER SCHOOLS GRANT PROGRAM

2007, 2008, 2009

Online Application Required

http://www.cde.ca.gov.....

Precharter Grants

Application Filing Periods:

Friday, July 13, 2007 through Thursday, August 2, 2007
Friday, July 11, 2008 through Thursday, July 31, 2008
Friday, July 10, 2009 through Friday, July 31, 2009

Planning and Implementation Grants

Application Filing Period: Ongoing acceptance

Technical Assistance
Dates and times: page 3
http://breeze.cde.ca.gov/charter/

California Department of Education
Charter Schools Division
1430 N Street, Room 5401
Sacramento, CA 95814
E-mail: charters@cde.ca.gov
(916) 322-6029

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I. INTRODUCTION

The 2007-2010 California Public Charter School Grant Program (PCSGP) has undergone significant changes in policy and program. Applicants familiar with previous grant funding through the PCSGP should read this Request for Applications (RFA) carefully to ensure they are responding to the new requirements. The use of obsolete application forms or procedures may significantly lower the score of a submitted application.

The federal Charter Schools Program (CSP), authorized by 20 U.S. Code sections 7221-7221j, is administered by the ED. It is a discretionary grant program, and each state is required to compete for available funding every three years. States that are awarded these federal funds distribute them in grants to charter school developers to assist in the development and initial operations of newly established or conversion high quality charter schools. California was awarded $108 million in grant funds for 2007-2010.

The CDE will award approximately 100 *Precharter* grants and 75 *Planning and Implementation (P&I)* grants each year for the next three years, pending annual allocations from the ED. *Dissemination* grants and contracts will be awarded under a separate RFA in 2009 only.

The California Department of Education (CDE) has added new priorities and incentives to the 2007-2010 PCSGP program design. The highest priority is to financially assist newly established and conversion charter schools that propose to increase the academic achievement of students who are at greatest risk of not meeting challenging state academic standards and who reside in the attendance area of chronically low performing schools, as indicated by being in Program Improvement, Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act, as amended by the No Child Left Behind (NCLB) Act, and having a state rank of 1 or 2 on California's Academic Performance Index (API). Applications for charter schools that meet this priority will receive a competitive point advantage and will be eligible for a larger *P&I* grant award. Additional points will be awarded to applications that meet these

criteria and that propose to serve a majority of secondary students (defined as grades 7-12).

2007-2010 PCSGP Grant Types

There are three types of grants available through the 2007-2010 PCSGP. This RFA is for the first two types. The third type, *Dissemination* grants, will be available only in 2009 through a separate RFA.

1. ***Precharter* Grants –** Awards are made to assist in the cost of obtaining an approved charter. Funds are not intended for the purpose of exploring the feasibility of developing a charter school. Only nonprofit entities and local public education agencies may apply for *Precharter* grants, and only one *Precharter* grant per year per developer will be awarded. *Precharter* grants will not be awarded to individuals or for-profit organizations.

2. ***Planning and Implementation (P&I)* Grants** – A newly established or a conversion charter school may apply for a *P&I* grant. If open, the school must not have been serving students for more than one school year at the time of application. Grant funds are intended to support the final planning and initial operation of the charter school**.** A developer is limited to a maximum of three *P&I* grants in each grant cycle, although the CDE will consider waivers to this limitation for developers opening more than three charter schools for the purpose of restructuring a large public high school into smaller learning communities.

3. ***Dissemination* Grants and Contracts** (Available in 2009 through a separate RFA and contract bid process. Interested parties should register at http://www.cde.ca.gov/fg/fo/af/joinlist to receive notices of the availability of these funds.) Charter schools may apply for a grant, and charter experts, including charter associations, may apply for a contract, to distribute best practices to traditional public school and charter school practitioners at a *Best Practices Seminar Program* to be held in 2010.

Submitting an Application

Applications must be completed online at xxxxxxxxxxxxxxxxxxxxxxxxxx Costs of preparing and submitting applications are the responsibility of the applicant and may not be charged to the grant.

Technical Assistance

Technical assistance will be provided to *Precharter* grant applicants through interactive Web casts held at 10:00 a.m. each Tuesday during the application period. A broadband Internet connection, Macromedia Flash Player software, and workstation speakers are required to participate in the Web cast. Web casts can be accessed at http://breeze.cde.ca.gov/charter.

P&I grant applicants may obtain technical assistance by telephone at (916) 322-6029, or by e-mail at charters@cde.ca.gov.

Application Due Dates

***Precharter* grant applications**: The online application system will only accept *Precharter* grant applications during the specified time frames identified below, and applications must be submitted no later than 11:59 p.m. Pacific Daylight Time, on the last day of the application period. The *Precharter* application filing periods are:

- Friday, July 13, 2007, through Thursday, August 2, 2007
- Friday, July 11, 2008, through Thursday, July 31, 2008
- Friday, July 10, 2009, through Friday, July 31, 2009

***P&I* applications**: Applications for *P&I* funding may be submitted at any time after the charter has been numbered by the SBE through the first year of operation of the school. The automated application system will notify the Charter Schools Division that an application has been submitted, and a peer review will be scheduled when the approved charter and the minutes of board action of the authorizing entity documenting the approval of the charter school have been received. Refer to Section III*, Planning and Implementation Grant Specifications*, for more information.

Selection of Awards

Federal law requires a peer review of PCSGP applications. California recruits national and state charter school developers, governing board members, operators, and authorizers to participate on review panels coordinated by the CDE. Reviewers are required to recuse themselves from the evaluation of any application for which they have a perceived or real conflict of interest.

All applications will be reviewed using the applicable rubric, and a minimum score of 75 points is required for funding. Refer to Appendices J and K.

Precharter grant applications will be reviewed annually, and awards will be announced each year at the September State Board of Education (SBE) meeting. *P&I* grant applications will be reviewed on an ongoing basis, within one month of submission of all required application components. Awards will be announced at the next scheduled SBE meeting after completion of the application review.

Appeal Process

Applicants may request the comments and final score of the review panel. An appeal of a grant award decision may be filed by submitting a written request for a hearing within 30 days of receiving official notification from the CDE that their application was not approved for a grant award. Requests to appeal the denial of a grant award must identify a violation by the CDE of a state or federal statute or regulation in failing to approve an application, or failing to award funds in amounts in accordance with the requirements of statutes and regulations, or failing to comply with California's approved 2007-2010 CSP application. See Appendix H to review federal appeal procedures [34 *Code of Federal Regulations* 76.401(c) (d) (2)-(7)].

Requests to appeal should be addressed to:

California Department of Education
Charter Schools Division
Public Charter Schools Grant Program
1430 N Street, Rm. 5401
Sacramento, CA 95814

PCSGP Time Line

ACTIVITY	DATE
Precharter grant application filing period begins	Friday, July 13, 2007 Friday, July 11, 2008 Friday, July 10, 2009
P&I grant application filing period	Continuous
Interactive technical assistance by Web cast. http://breeze.cde.ca.gov/charter/	Tuesdays at 10:00 a.m. July 17, 24, 31, 2007 July 15, 22, 29, 2008 July 14, 21, 28, 2009
Precharter grant applications due Thursday, at 11:59 p.m.	August 2, 2007 July 31, 2008 July 31, 2009
P&I grant applications due	Ongoing acceptance
P&I application scoring completed	Within 1 month of submission
SBE approves *Precharter* grant awards	September 2007, 2008, 2009
SBE approves *P&I* grant awards	ongoing

Grant Monitoring

The CDE will monitor grants by reviewing and approving quarterly financial reports and annual status reports. All information in these reports is subject to verification, and the CDE may require additional information from the grantee, verify information with the authorizing entity, require the submission of invoices and receipts, or use any other appropriate and legal means to obtain such verification. The CDE will also conduct site visits to *P&I* grantees during the grant project period. Prior to these monitoring visits, the grantee may be required to submit additional relevant information that will allow the CDE to conduct a useful, efficient, and effective visit.

II. *Precharter* Grant Specifications

Precharter grants are a new design element of the PCSGP. Because of delays that many charter developers are experiencing in obtaining an approved charter, federal restrictions that limit grant project time frames, and state restrictions that define allowable school opening dates, some previous grantees have been unable to successfully complete their grants. The 2007-2010 PCSGP will now allow grantees who were unable to obtain an approved charter for a charter petition submitted to an authorizing entity during the grant project period, to be placed into inactive status. When an approved charter has been obtained, a grantee may apply for *P&I* funding. This redesign helps to mitigate the negative impact of delays caused by external factors over which a grantee has no control.

The *Precharter* grant application is designed to evaluate the capacity of the applicant to obtain an approved charter for a school that is likely to become a high quality charter school that improves student academic achievement, especially for students who reside in the attendance area of a chronically low performing school.

Applicants should note that a *Precharter* grant is not a guarantee of additional *P&I* funds after an approved charter has been obtained, and that a separate application is required for *P&I* funding. Please refer to the *P&I* Grant Specifications in Section III of the RFA for more information about these grant funds.

Eligible Applicants

To be eligible for *Precharter* grant funds, all of the following conditions must be met:

- The applicant must be a nonprofit entity or local education agency. Non-profit status at the time of submission of the application will be verified with the Secretary of State. Individuals and for-profit entities may not apply for a *Precharter* grant.
- If the applicant is operating other charter schools in California, those schools must be achieving adequate yearly progress (AYP) under NCLB.

- The application must be submitted for the development of a newly established charter school that does not have an approved charter. Refer to Appendix A for definition of newly established charter school.
- Applicants may apply for only one *Precharter* grant in each grant cycle, regardless of the number of schools they plan to open. Applicants may receive funds only once for precharter activities for any school.
- The applicant must expend grant funds only for activities related to submitting and obtaining an approved charter and within the grant project period.
- An applicant who has previously received PCSGP grant funds prior to the 2007-2010 grant cycle for the purpose of developing and obtaining an approved charter must have submitted a charter petition to an authorizing entity during the grant project period, **or** must have returned all grant funds.
- Future PCSGP grant funding is contingent on satisfactory completion of activities required in previous PCSGP grant awards.

Preference Points

Precharter applicants will receive 30 preference points for proposing to start or convert a charter school that will be located, and will have a total enrollment containing a majority of students who reside, in the attendance area of at least one NCLB Title 1, Part A school in Program Improvement (PI) Years 3, 4, or 5 that has an API state rank of 1 or 2. Applicants who receive a *Precharter* grant that sought and was awarded preference points should note that eligibility for *P&I* funding is contingent upon submitting an approved charter that identifies a charter school that will serve the population for whom preference points were awarded.

An additional 10 preference points will be awarded to *Precharter* grant applicants meeting the above preference and proposing to have a total enrollment that contains a majority of secondary students (grades 7-12.).

Maximum funding Level and Length of Grant Award

The maximum grant award for a *Precharter* grant is $45,000 and the maximum length of the grant project period is six months. *Precharter* funds cannot be used for any activities occurring after the charter is approved, and any unexpended funds, as of the approval date of the charter or at the end of the six-month grant project period, must be returned to the CDE.

Permissible Use of Funds

Please refer to Appendix B for allowable *Precharter* grant project costs. The CDE will evaluate all grant project budgets to ensure that costs are reasonable and allowable under the CSP guidelines, and may require modifications as a condition of funding.

Grant Payment Schedule

Unless the CDE determines that a different disbursement schedule is necessary, payments will be released to grantees in two quarterly advances and one final payment of 10% of the grant award, pending the submission and approval of status and expenditure reports, a request for payment based on projected expenditures during the next quarter, and other documents listed below as required:

- **Certification of Award and Assurances**
  The Certification of Award and Assurances is a legally binding document between the CDE and the grant recipient. Recipients must return the Certification of Award and Assurances, with the original signature of the president of the non-profit board of directors or the superintendent of the LEA submitting the application.

- **Contracting Standards (if contracts will be made with grant funds)**
  If grant funds are used to contract for goods or services, federal regulations require that grantees report that they have developed standards for awarding contracts. Federal regulations for these contract standards are contained in

Appendix C. The CDE will evaluate the use of these standards during its monthly review of grantee expenditures, and may request to see the grantee's contracting standards at any time. Costs associated with contracts **not** negotiated in accordance with federal regulations will be disallowed.

- **Organizational and Governance Documents**
  Grantees must certify that organizational charts, articles of incorporation, and any other organizational and governance documents of the agency are on file at the business offices of the nonprofit, public benefit corporation.

Application Instructions

The online application form allows applicants to save draft versions of the application and to make edits. Once the application is submitted as final, edits are no longer possible. The application must be submitted as final prior to the due date and time. By submitting the application the applicant agrees to be accountable for, and to abide by, the terms, conditions, and definitions of the PCSGP.

The online application requires the applicant to provide identifying information about the proposed charter school, contact information, a Project Narrative, and a monthly budget of proposed grant project expenditures.

The Project Narrative is the only section of the application that will be scored. It is limited to a maximum of 1500 words, and the first two criteria listed below must be addressed in the Project Narrative. If the application meets the third and fourth criteria listed below, the appropriate preference points will be automatically awarded. The applicant is not required to address the third and fourth criteria in the Project Narrative.

Criteria Used to Determine Score:

1. The capacity and resources of the non-profit entity to develop and operate a high quality charter school. (40 points)
2. The level of community and parent support for the proposed school. (30 points)

3. Whether the proposed charter school will be located in the attendance area of a traditional public school that is identified as being in Program Improvement, Years 3, 4, or 5 under Title 1, Part A of NCLB and that has a state rank of 1 or 2 on the API. (20 preference points) **Important Notice**: *Precharter* grantees that apply for this preference will be eligible for *P&I* funds only if the approved charter clearly indicates that the school meets this criterion.
4. The proposed charter school's enrollment will consist of a majority of secondary students. (10 preference points)

The CDE may require an oral interview of members of the founding group submitting the application. The interview may be used to determine the final score of the application using the rubric specified in Appendix J.

The budget will not be scored but it must be included in the application. *Precharter* grant applicants must project spending, by month, through the date of expected approval of the charter, for a total grant project period of up to six months.

All budget line items must contain enough detail for the CDE to understand how funds will be used, such as the level of effort of employees and contractors, and the volume/unit cost of supplies and equipment. The CDE may require funded grantees to amend or modify their budgets if budgets contain unreasonable or unallowable costs under federal guidelines, as determined by the CDE.

Notes:

- Grant funds cannot be used for fundraising or for the purchase of land or facilities.
- Construction and remodeling expenses are not allowable expenditure of *Precharter* grant funds.

III. *Planning and Implementation (P&I)* Grant Specifications

The purpose of *Planning and Implementation (P&I)* grants is to provide financial assistance for the final planning and initial operations of newly established and conversion charter schools. Refer to Appendix A for the definitions of "newly established" and "high quality" as they apply to this RFA.

P&I funding is a new design element of the 2007-2010 PCSGP, and it is important for applicants to note changes and new definitions within this category of funding.

- Planning: In previous grant cycles, planning activities referred to those that took place prior to receiving an approved charter. Now planning activities refer to those that occur after obtaining an approved charter but prior to opening of the school. Planning activities must be completed within 12 months, and any time spent on PCSGP funded precharter activities is included within these 12 months.
- Implementation activities now refer to only those that occur after the school is open and are limited to 24 continuous months.
- Planning and implementation activities are limited to a maximum continuous 36 months.
- *P&I* grants cannot be placed into inactive status. All funded project activities must be completed during the grant project period.
- *P&I* applications may now be submitted at any time and applicants are advised to time their *P&I* applications to match the opening date of their school(s).
- If not approved for a grant, applicants may seek a material revision to the charter that better addresses the application criteria and resubmit it.

Another significant change in the 2007-2010 PCSGP is the increased impact of preference to more strongly emphasize the goals of the federal CSP. Preference will be demonstrated by:

- An increased number of preference points applied to the final scores of applications proposing to operate a charter school that has a total enrollment that consists of a majority of students residing in the attendance areas of chronically low performing schools, defined as those in Program Improvement (PI) Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act, **and** that have a state rank of 1 or 2 on California's Academic Performance Index (API).
- Significantly increasing the size of grant awards for schools serving a majority of the above student population.
- Considering waivers to the limitation of three *P&I* grants per year per charter developer if the developer is opening more than three charter schools for the purpose of restructuring a large public high school into smaller learning communities.

Eligible Applicants

To be eligible for *P&I* grant funds, **all** of the following conditions must be met:

- The applicant must be an SBE-numbered charter school operated by or as a nonprofit entity or by a local education agency.
- The applicant must have an approved charter for a newly established school that has not yet opened or has been open for no more than one school year. Refer to Appendix A for definition of newly established charter school.
- If an applicant has previously spent PCSGP funds to develop a charter petition for any school, the petition must have been submitted to an authorizing entity during the grant project period during which funds were awarded. If an applicant has previously spent PCSGP funds for the planning and/or initial operation of an SBE numbered charter school, it must have the same number of open and operating charter schools as the number of PCSGP grants received.
- Applicants who were awarded preference points for, and received, PCSGP funds to obtain an approved charter must submit an approved charter that clearly

identifies the newly established charter school will serve a majority of the student population for which preference points were awarded.

- Applicants must submit an approved charter that identifies the capacity to attain an enrollment level of at least 50 students during the grant project period.

Preference Points

Preference points are available to *P&I* applicants who submit an application that includes an approved charter which clearly identifies that the charter school will be located in, and serve a majority of students who reside in the attendance area of at least one NCLB Title 1, Part A school in Program Improvement (PI) Years 3, 4, or 5 that has an API state rank of 1 or 2. Additional preference will be awarded to schools that meet this criterion and whose enrollment consists of a majority of secondary students (grades 7-12).

Note: Charter schools that are a conversion, reconfiguration, or restructure of an existing traditional public school in Program Improvement, Years 4 or 5, must develop and implement a contract, based on elements identified in Appendix F, with an entity other than itself to assist in the transition to charter status. This entity could be an educational management organization, consulting firm, or neighboring LEA having experience and success in improving the academic achievement of a similar student population.

Maximum Funding Level and Length of Grant Award

All *P&I* grantees are eligible for the maximum grant award allowable as determined by enrollment and type of school. Please refer to Table 2. Charter schools that are not yet open will receive grant funds over a period of time not to exceed 36 months, and schools that are already open will receive the maximum grant award over a period of time not to exceed 24 months.

The planning phase of *P&I* funding is limited to 12 months, and begins when funds are awarded and ends on the date the school opens. (Time spent on PCSGP *Precharter* grant activities is deducted from this time limit.)

The implementation phase of *P&I* funding begins the date the school opens and is limited to 24 months. Applicants should carefully consider these time frames and restrictions to determine the most beneficial time frame for submitting a *P&I* application.

Maximum *P&I* Award Amounts
Table 2

School Type & Enrollment Level	Maximum Award	Planning Year	Implementation Yr 1	Implementation Yr 2
		Or if school is open prior to receiving grant funds:		
		Implementation Yr 1		Implementation Yr 2
Site-based schools PI Yr 3, 4, or 5 and API 1 or 2 preference 100+ students	$600,000	$250,000	$200,000	$150,000
Site-based schools PI Yr 3, 4, or 5 and API 1 or 2 preference 50-99 students	$500,000	$200,000	$200,000	$100,000
Site-based schools Not in PI Yr 3, 4, or 5 100+ students	$450,000	$200,000	$175,000	$75,000
Site-based schools Not in PI Yr 3, 4, or 5 50-99 students **or** Non site-based schools **or** conversion schools	$250,000	$100,000	$100,000	$50,000

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Permissible Use of the Grant Award

Grantees may only use grant funds for allowable grant project expenditures during the grant project period. Any unexpended funds remaining at the end of the grant project period must be returned to the CDE.

The CDE will evaluate all grant project budgets to ensure that they are reasonable and allowable under federal guidelines, and may require modifications as a condition of funding. Please refer to Appendix B for a description of allowable costs.

Grant Payment Schedule

Unless the CDE determines that a different disbursement schedule is necessary, all payments will be released to grantees as advances on a quarterly basis, pending the submission and approval of quarterly status and expenditure reports, a request for payment based on projected expenditures during the next quarterly, and other documents listed below:

- **Certification of Award and Assurances**
  The Certification of Award and Assurances is a legally binding document between the CDE and the grant recipient. Upon notice of award, grantees must return the Certification of Award and Assurances, with the original signature of the designated official of the applicant, either the president of the board of directors of the nonprofit entity, or the superintendent of the local education agency.

- **Contracting Standards (if contracts will be made with grant funds)**
  If grant funds are used to contract for goods or services, federal regulations require grant recipients to report that they have developed standards for awarding contracts. Federal regulations for these contract standards are contained in Appendix C. The CDE will evaluate the use of these standards during its monthly review of grantee expenditures, and may request to see the grantee's contracting standards at any time. Costs associated with contracts **not** negotiated in accordance with federal regulations will be disallowed.

- **Organizational and Governance Documents**
  Upon notification of award, grantees must certify that the following documents are on file at its business offices: organizational charts, signed articles of incorporation, and any other organizational and governance documents of the agency.

- **Student Enrollment Report**
  The grant recipient must submit an enrollment report, verified by its charter authorizer. This verification can be provided by a CBEDS report or by a signed statement from the authorizer. The amount of this grant payment will be based on the level of enrollment. If the school has not reached the enrollment projected in the grant application by the end of the grant project period, grant award will be reduced accordingly.

- **Staff Verification Report**
  Grant recipients must submit a report of teachers hired adhering to NCLB "highly-qualified teacher" standards for core academics. More information about "highly-qualified teacher" standards may be found at http://www.cde.ca.gov/nclb/sr/tq. Grant recipients must report that all staff has cleared health (e.g., fingerprinting, tuberculosis) and criminal background checks.

- **Western Association of Schools and Colleges (WASC) Accreditation**
  Proof of Interim or candidacy accreditation from the WASC is required of all grantees by the end of the first year of operation.

- **Statewide Standardized Testing**
  Grant recipients must participate annually in all state standardized testing programs required by state law.

Application Instructions

The online application form allows applicants to save draft versions of the application and to make edits. Once the application is submitted as final, edits are no longer possible. By submitting the application the applicant agrees to be accountable for, and to abide by, the terms, conditions, and definitions of the PCSGP.

The application may be submitted once an SBE number has been obtained. In addition to the online application, an electronic version of the approved charter should be submitted to PCSGP-APPS@cde.ca.gov.

The online application requires the applicant to provide identifying information about the charter school, contact information, location where a description of required information is contained in the approved charter and attachments, and a budget for the first year of grant project expenditures. Only the language contained in the approved charter, its attachments, and/or Memorandum of Understanding will be scored. Please refer to the rubric in Appendix K for how scores will be determined.

Applicants should note that the final score of an application is intended to indicate:

- How well the charter school matches the goals and priorities of the federal CSP and the PCSGP, both of which are significantly weighted in the rubric.
- The capacity of the applicant to ensure that the charter school achieves its goals and objectives.

If the approved charter does not sufficiently explain how the charter school will meet each of the application criteria, the applicant may resubmit a revised application that contains material revisions to the approved charter that better address the criteria of the PCSGP.

Project Narrative Criteria to be addressed:

1. The likelihood that the school's education program, including goals and objectives, curriculum and instructional strategies, assessment, and evaluation will result in increased student academic performance as measured by the State's standardized testing program and by the school meeting AYP under NCLB. (40 points)
2. The likelihood that the management plan, which describes governing board capacity, organizational structure, roles and responsibilities, and data driven decision-making to create, support, and sustain a high quality charter school. (30 points)
3. The school's plan to serve students who reside in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under NCLB and has a state API rank of 1 or 2. (20 preference points)
4. The majority of the school's enrollment will be secondary students that meet the above preference. (10 preference points) (This element is not included in the rubric and will be automatically awarded to qualifying applicants.)

The CDE may require an oral interview of members of the non-profit governing board. The interview may be used to determine the final score of the application using the rubric specified in Appendix I.

The budget will not be scored but it must be included in the application. Only the first year of expenditures, by quarter, should be entered in the budget sheet provided in the online application. Grantees will be required to submit additional budgets during the grant project period for the second and third years of funding.

All budget line items should contain enough detail for the CDE to understand how funds will be used, such as the level of effort of employees and contractors and the volume/unit cost of supplies and equipment, and how ongoing costs, if charged to the grant, will be sustained at the conclusion of the grant project period. The CDE may require grantees to amend or modify their budgets if they contain unreasonable or non-allowable costs under federal guidelines, as determined by the CDE.

Notes:

- Grant funds cannot be used for fundraising or for the purchase of land or facilities.
- Construction and remodeling expenses are limited to bringing a facility up to code or into compliance with the Americans with Disabilities Act, or when they relate to a specific educational program of the school.

Appendix A

Definitions of PCSGP Terms

Admissions Criteria: see Public Random Drawing

Approved Charter: A charter petition that has been approved by an authorizing entity for a public school in California. Formal minutes of the authorizing entity document the approval of the charter petition.

Authorized Agent: President of the non-profit entity, or superintendent of local education agency applying for funds. The authorized agent must verify and sign all official documents related to the grant award.

Authorizing Entity: A California school district, county office of education, or the State Board of Education (SBE) that has approved a charter petition, directly or on appeal.

Charter School: A charter school is a public school that provides instruction in any grades kindergarten through 12 grades and is approved by an authorized public chartering agency as a charter school under the provisions of *Education Code* Section 47600 et. seq.

Charter Network Developer: A PCSGP-eligible charter network developer is a non-profit entity that develops multiple charter schools based on a successful charter school model.

Conflict of Interest: see Appendix I. Charter school and non-profit, public benefit corporation board members are regarded as governmental representatives and are subject to provisions of the Fair Political Practices Act and federal regulations found in 34 *Code of Federal Regulations* 75.525.

Conversion School: A conversion school is a traditional public school that converts to charter status under the processes established in *Education Code* sections 47605, 52055.5, 52055.55, or 52055.650. Conversion schools in Program Improvement Year 4 must abide by Appendix F.

Direct-Funded: Direct-funded is a funding designation under which charter schools receive funds and apply for grants independently from an LEA. A charter school annually selects its funding status via the Funding Survey distributed by the California Department of Education (CDE). (Also see **Locally-Funded**.)

High Quality: A high quality charter school is a school that has achieved NCLB Adequate Yearly Progress (AYP) goals, has minimally obtained Candidacy* or Interim

Accreditation* status in the Western Association of Schools and Colleges (WASC) accreditation process, and whose current annual independent audit contains no material exceptions or deficiencies.

Locally-Funded: Locally-funded is a funding designation that provides funding for charter schools through an LEA. Charter schools can annually select their funding status. (Also see **Direct-funded**.)

Lottery: See Public Random Drawing

Newly established Charter School: For purposes of the PCSGP, a newly established charter school is defined as a charter school that has not operated as a private school or under another SBE number, **and** has been in operation as a charter school for no more than one school year. Education Code section disallows the conversion of private schools to charter schools. Existing charter schools acquiring a new charter-authorizing entity are not eligible for PCSGP grant funds.

Non Site-Based: Non site-based instruction occurs when a school does not require the attendance of its pupils to be at the school site under the immediate supervision and control of an employee of the school for a minimum of 80 percent of the annual required instructional time.

Public Random Drawing (Lottery): (<u>also refer to Appendix I: CSP Non Regulatory Guidance. Note: This Guidance was recently updated and the new language is not included in Attachment I but *is* included in this definition</u>): A lottery is a random selection process by which students are admitted to the charter school. The federal CSP program requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Charter schools cannot create separate lottery pools for any purpose, including the desire to ensure balance in areas such as gender, disabilities, languages, nationality and poverty.

A school seeking to avoid any imbalance in its student population should do so through its recruitment efforts. However, recruitment must be conducted in a manner that does not discriminate against students by race, color, national origin, religion, or sex, or against students with disabilities. Rather, the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs.

The CSP limits exemptions to the lottery to currently enrolled students (including students who were enrolled in a public school at the time it was converted into a public charter school), siblings of currently enrolled students, and children of founders and teachers so long as the total number of students is less than 10% of the total enrollment.

Although California law allows charter schools to provide preferences, the CSP allows preferences only through a weighted lottery, and that they be given only when they are

necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Protection Clause of the Constitution, applicable state law related to addressing these federal laws, or for the purpose of giving students the ability to exercise their right to choose a different school if the attendance area school in which they are currently enrolled is in Program Improvement, Year 3 under NCLB.

Schools that exempt students or give preferences to them for other reasons than those stated above are not eligible for grant funding through the federal Charter School Program, the federal Credit Enhancement for Charter School Facilities Grants Program, or the federal State Charter School Facilities Incentive Grants Program.

Reconfiguration: Reconfiguration involves changes that often affect multiple schools. This may include school closures, school mergers, the opening of newly established charter schools, and the redrawing of attendance areas. Reconfigurations that affect or involve PI schools may result in the removal of the PI designation of the school. **For PCSGP purposes, only reconfigured schools that maintain PI status are eligible for PCSGP awards.**

Restructured School: Under NCLB, a restructured school in PI Years 4-5 refers to changes made at a PI school that reorganizes the staffing, governance, or other aspects of the school but maintains the school intact as an entity, with the same student population, usually located at the same school facility and with the same school code. A restructured school, including a PI school converted to a charter school, will continue to retain its designation as a PI school and will exit PI only when the school has made AYP for two consecutive years.

Secondary school or students: A secondary school is a school that is composed of any combination of seventh through twelfth grades. A secondary student is any student enrolled in grades seven through twelve. A PCSGP applicant may be eligible for preference points if a majority of its students are in secondary grades.

Single Audit: Federal law requires that all non-federal entities expending $300,000 or more in **combined** federal funds (e.g., PCSGP and Title I funds), obtain and submit to the Federal Audit Clearinghouse a federal Single Audit. PCSGP recipients required to file federal Single Audits must submit a copy of the reporting package to the CDE Charter Schools Division as a PCSGP performance benchmark. Further information may be found at http://www.harvester.census.gov/sac/sainfo.

Site-based: Site-based programs provide educational activities that are under the immediate supervision and control of an employee of the charter school, and require that a minimum of 80 percent of annual instructional time is taking place at the school site. (Also referred to as Classroom-based.)

Weighted Lottery: (see **Random Public Drawing**)

Appendix B

PCSGP Allowable Expenses
California Cost Codes

Purpose

The purpose of the PCSGP is to plan and open high quality charter schools throughout California, and to share best practices developed within existing high quality charter schools with other charter and traditional public schools. All grant expenditures must support these overarching goals.

General Federal Guidelines

The PCSGP is federally funded and must adhere to all applicable federal law and regulations. General guidance regarding allowable expenses for federal grant funds may be found on Office and Management and Budget (OMB) Circular A-87. It is located on the OMB Web page at http://www.whitehouse.gov/omb/circulars. Of particular interest to PCSGP applicants is the prohibition of using federal grant funds for fundraising, civil defense, legal claims against the state or federal government, and contingencies. Further federal regulations expressly prohibit the acquisition of facilities and construction (*Code of Federal Regulations* 34 § 76.533).

California Account Codes

1000 - Certificated Personnel Salaries
Salaries for credentialed teachers, school administrators, librarians, counselors, and school nurses.

2000 - Classified Personnel Salaries
Salaries for non-credentialed administrators and managers, teachers' assistants, clerical staff, custodians, cooks, bus drivers, maintenance workers and others.

3000 - Employee Benefits
Benefits such as retirement (PERS or STRS), Social Security and Medicare, health and welfare benefits, unemployment insurance, workers compensation insurance, and other offered benefits.

4000 - Books and Supplies (Per unit cost under $5000)
Costs for textbooks, instructional materials, office supplies, custodial supplies, food service supplies, gas and oil for buses, and shipping fees to receive them.

5000 - Services and Other Operating Expenditures
Costs for consultants, services contracts, facility rent or lease, maintenance contracts, dues, travel, insurance, utilities, attorney fees, and audit fees.

6000 - Capital Outlay (Purchase of real estate, i.e. buildings/property, is not allowable) (Per unit cost over $5000 or put in text)
Cost of site improvements and remodeling for bringing a facility up to code, making it compliant with the Americans with Disabilities Act, or directly tied to a specific educational program.

7000 - Other Outgo
Costs of tuition and fees to other entities, transfers of money to other funds or programs such as Special Education or Regional Occupational Centers and Programs (ROCP), and transfers to other districts or Joint Powers Agreements (JPAs). Federal law disallows Indirect Cost Rate fees as a PCSGP expense.

For more information regarding California Account Codes, please refer to the California School Accounting Manual (CSAM) for guidance at: http://ww.cde.ca.gov/fg/ac/sa/.

Appendix C

Contract Standards

PCSGP recipients must develop and use a written contract administration system that conforms to applicable federal and state standards when awarding contracts with federal Public Charter Schools Grant Program (PCSGP) funds. All grant recipients are required to keep on file the contract standards they develop.

A component of CDE's grant-monitoring site visit program is to review the charter school's process of awarding and administering contracts, including the contracts themselves. Contracts awarded in violation of federal and state standards may **not** be eligible for PCSGP reimbursement.

Below are the federal regulations governing contracts. California *PCSGP* recipients are "sub recipients" for the purposes of these regulations.

34 *Code of Federal Regulations* 80.36

(b) Procurement standards. (1) Grantees and subgrantees will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(2) Grantees and subgrantees will maintain a contracts administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above,

has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic

value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent or potential conflicts of interest.

(4) Grantee and subgrantee procedures will provide for a review of proposed procurements to avoid purchase of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(5) To foster greater economy and efficiency, grantees and subgrantees are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(6) Grantees and subgrantees are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(7) Grantees and subgrantees are encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(8) Grantees and subgrantees will make awards only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(9) Grantees and subgrantees will maintain records sufficient to detail the significant history of a procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(10) Grantees and subgrantees will use time and material type contracts only:

(i) After a determination that no other contract is suitable, and

(ii) If the contract includes a ceiling price that the contractor exceeds at its own risk.

(11) Grantees and subgrantees alone will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee of any contractual responsibilities under its contracts. Federal agencies will not substitute their judgment for that of the grantee or subgrantee unless the matter is primarily a Federal concern. Violations of law will be referred to the local, State, or Federal authority having proper jurisdiction.

(12) Grantees and subgrantees will have protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding the protest to the awarding agency. A protestor must exhaust all

administrative remedies with the grantee and subgrantee before pursuing a protest with the Federal agency. Reviews of protests by the Federal agency will be limited to:

(i) Violations of Federal law or regulations and the standards of this section (violations of State or local law will be under the jurisdiction of State or local authorities) and

(ii) Violations of the grantee's or subgrantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal agency other than those specified above will be referred to the grantee or subgrantee.

(c) Competition. (1) All procurement transactions will be conducted in a manner providing full and open competition consistent with the standards of Sec. 80.36. Some of the situations considered to be restrictive of competition include but are not limited to:

(i) Placing unreasonable requirements on firms in order for them to qualify to do business,

(ii) Requiring unnecessary experience and excessive bonding,

(iii) Noncompetitive pricing practices between firms or between affiliated companies,

(iv) Noncompetitive awards to consultants that are on retainer contracts,

(v) Organizational conflicts of interest,

(vi) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and

(vii) Any arbitrary action in the procurement process.

(2) Grantees and subgrantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts State licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(3) Grantees will have written selection procedures for procurement transactions. These procedures will ensure that all solicitations:

(i) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated; and

(ii) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) Grantees and subgrantees will ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, grantees and subgrantees will not preclude potential bidders from qualifying during the solicitation period.

(d) Methods of procurement to be followed--(1) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources.

(2) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in Sec. 80.36(d)(2)(i) apply.

(i) In order for sealed bidding to be feasible, the following conditions should be resent:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively and for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids;

(B) The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;

(C) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(3) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(i) Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;

(ii) Proposals will be solicited from an adequate number of qualified sources;

(iii) Grantees and subgrantees will have a method for conducting technical evaluations of the proposals received and for selecting awardees;

(iv) Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(v) Grantees and subgrantees may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(4) Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

(A) The item is available only from a single source;

(B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(C) The awarding agency authorizes noncompetitive proposals; or

(D) After solicitation of a number of sources, competition is determined inadequate.

(ii) Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.

(iii) Grantees and subgrantees may be required to submit the proposed procurement to the awarding agency for pre-award review in accordance with paragraph (g) of this section.

(e) Contracting with small and minority firms, women's business enterprise and labor surplus area firms. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible.

(2) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;

(v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

(vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

(f) Contract cost and price. (1) Grantees and subgrantees must perform a cost or price analysis in connection with every procurement action including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, grantees must make independent estimates before receiving bids or proposals. A cost analysis must be performed when the offeror is required to submit the elements of his estimated cost, e.g., under professional, consulting, and architectural engineering services contracts. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis will be used in all other instances to determine the reasonableness of the proposed contract price.

(2) Grantees and subgrantees will negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor’s investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(3) Costs or prices based on estimated costs for contracts under grants will be allowable only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal cost principles (see Sec. 80.22). Grantees may reference their own cost principles that comply with the applicable Federal cost principles.

(4) The cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

(g) Awarding agency review. (1) Grantees and subgrantees must make available, upon request of the awarding agency, technical specifications on proposed procurements where the awarding agency believes such review is needed to ensure that the item and/or service specified is the one being proposed for purchase. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee or subgrantee desires to have the review accomplished after a solicitation has been developed, the awarding agency may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(2) Grantees and subgrantees must on request make available for awarding agency pre-award review procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc. when:

(i) A grantee's or subgrantee's procurement procedures or operation fails to comply with the procurement standards in this section; or

(ii) The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation; or

(iii) The procurement, which is expected to exceed the simplified acquisition threshold, specifies a “brand name” product; or

(iv) The proposed award is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(v) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

(3) A grantee or subgrantee will be exempt from the pre-award review in paragraph (g)(2) of this section if the awarding agency determines that its procurement systems comply with the standards of this section.

(i) A grantee or subgrantee may request that its procurement system be reviewed by the awarding agency to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews shall occur where there is a continuous high-dollar funding, and third-party contracts are awarded on a regular basis.

(ii) A grantee or subgrantee may self-certify its procurement system. Such self-certification shall not limit the awarding agency's right to survey the system. Under a self-certification procedure, awarding agencies may wish to rely on written assurances from the grantee or subgrantee that it is complying with these standards. A grantee or subgrantee will cite specific procedures, regulations, standards, etc., as being in compliance with these requirements and have its system available for review.

(h) Bonding requirements. For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the awarding agency may accept the bonding policy and requirements of the grantee or subgrantee provided the awarding agency has made a determination that the awarding agency's interest is adequately protected. If such a determination has not been made, the minimum requirements shall be as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contracts price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contracts.

(3) A payment bond on the part of the contractor for 100 percent of the contracts price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contracts.

(i) Contract provisions. A grantee's and subgrantee's contracts must contain provisions in paragraph (i) of this section. Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. (contracts more than the simplified acquisition threshold)

(2) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of $10,000)

(3) Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). (All construction contracts awarded in excess of $10,000 by grantees and their contractors or subgrantees)

(4) Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (All contracts and subgrants for construction or repair)

(5) Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of $2000 awarded by grantees and subgrantees when required by Federal grant program legislation)

(6) Compliance with sections 103 and 107 of the Contracts Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts awarded by grantees and subgrantees in excess of $2000, and in excess of $2500 for other contracts which involve the employment of mechanics or laborers)

(7) Notice of awarding agency requirements and regulations pertaining to reporting.

(8) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contracts.

(9) Awarding agency requirements and regulations pertaining to copyrights and rights in data.

(10) Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contracts for the purpose of making audit, examination, excerpts, and transcriptions.

(11) Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

(12) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (contracts, subcontracts, and subgrants of amounts in excess of $100,000)

(13) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Appendix D

Equipment and Supplies Standards

Public Charter Schools Grant Program (PCSGP) recipients must follow federal regulations when purchasing, using, and disposing of grant project equipment and supplies.

- "Equipment" is defined as tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.
- "Supplies" are defined as all tangible personal property other than equipment. (34 *Code of Federal Regulations* 80.3)

A requirement of the California Department of Education's PCSGP grant-monitoring program is to verify that the equipment, supplies, and related records of grant recipients are in compliance with federal regulations.

PCSGP recipients are "subgrantees" for the purposes of these regulations.

34 *Code of Federal Regulations* 80.32

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant or subgrant will vest upon acquisition in the grantee or subgrantee respectively.

(b) States. A State will use, manage, and dispose of equipment acquired under a grant by the State in accordance with State laws and procedures. Other grantees and subgrantees will follow paragraphs (c) through (e) of this section.

(c) Use. (1) Equipment shall be used by the grantee or subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by Federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a Federal agency.

(2) The grantee or subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in Sec. 80.25(a) to earn program income, the grantee or subgrantee must not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by Federal statute.

(4) When acquiring replacement equipment, the grantee or subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the grantee or subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a grant or subgrant is no longer needed for the original project or program or for other activities currently or previously supported by a Federal agency, disposition of the equipment will be made as follows:

(1) Items of equipment with a current per-unit fair market value of less than $5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.

(2) Items of equipment with a current per unit fair market value in excess of $5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.

(3) In cases where a grantee or subgrantee fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee to take excess and disposition actions.

(f) Federal equipment. In the event a grantee or subgrantee is provided federally-owned equipment:

(1) Title will remain vested in the Federal Government.

(2) Grantees or subgrantees will manage the equipment in accordance with Federal agency rules and procedures, and submit an annual inventory listing.

(3) When the equipment is no longer needed, the grantee or subgrantee will request disposition instructions from the Federal agency.

(g) Right to transfer title. The Federal awarding agency may reserve the right to transfer title to the Federal Government or a third part named by the awarding agency when such a third party is otherwise eligible under existing statutes. Such transfers shall be subject to the following standards:

(1) The property shall be identified in the grant or otherwise made known to the grantee in writing.

(2) The Federal awarding agency shall issue disposition instruction within 120 calendar days after the end of the Federal support of the project for which it was acquired. If the Federal awarding agency fails to issue disposition instructions within the 120 calendar-day period the grantee shall follow Sec. 80.32(e).

(3) When title to equipment is transferred, the grantee shall be paid an amount calculated by applying the percentage of participation in the purchase to the current fair market value of the property.

(h) The provisions of paragraphs (c), (d), (e), and (g) of this section do not apply to disaster assistance under 20 U.S.C. 241-1(b)-(c) and the construction provisions of the Impact Aid Program, 20 U.S.C. 631-647.

34 *Code of Federal Regulations* 80.33

(a) Title. Title to supplies acquired under a grant or subgrant will vest, upon acquisition, in the grantee or subgrantee respectively.

(b) Disposition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee shall compensate the awarding agency for its share.

Appendix E

Financial Management Standards

Public Charter Schools Grant Program (PCSGP) recipients are required to adhere to federal regulations when developing and using a financial management system to administer federal PCSGP funds. A requirement of the California Department of Education's grant-monitoring program is to verify that the financial management systems of grant recipients is in compliance with federal regulations.

PCSGP recipients are "subgrantees" for purposes of these regulations.

34 *Code of Federal Regulations* 80.20

(a) A State must expand and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds. Fiscal control and accounting procedures of the State, as well as its subgrantees and cost-type contractors, must be sufficient to:

(1) Permit preparation of reports required by this part and the statutes authorizing the grant, and

(2) Permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of other grantees and subgrantees must meet the following standards:

(1) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.

(2) Accounting records. Grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.

(3) Internal control. Effective control and accountability must be maintained for all grant and subgrant cash, real and personal property, and other assets. Grantees and subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes.

(4) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.

(5) Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the reasonableness, allowability, and allocability of costs.

(6) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contracts and subgrant award documents, etc.

(7) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by grantees and subgrantees must be followed whenever advance payment procedures are used. Grantees must establish reasonable procedures to ensure the receipt of reports on subgrantees' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the grantee must make drawdowns as close as possible to the time of making disbursements. Grantees must monitor cash drawdowns by their subgrantees to assure that they conform substantially to the same standards of timing and amount as apply to advances to the grantees.

(c) An awarding agency may review the adequacy of the financial management system of any applicant for financial assistance as part of a preaward review or at any time subsequent to award.

Appendix F

No Child Left Behind Title I, Part A
Program Improvement School Contracts
Required Elements

Charter schools restructuring from traditional public schools in Program Improvement, Year 4, under Title I, Part A of the No Child Left Behind Act of 2001 must retain the services of a technical assistance provider that has previous experience and success in working with the same student population served by the grant recipient school.

All contracts awarded with federal funds must adhere to the guidelines presented in Appendix C. In addition, the following are specific elements that must be included:

- Assistance to grant recipients to ensure the involvement of parents, teachers, and community members in the development of the charter petition and program design of the school through surveys, community meetings, and other means. Activities must include surveys and community meetings scheduled at times convenient to parents.

- Assistance to grant recipient in identifying and implementing an educationally sound, standards-based educational program targeted to the specific student population of the school. The educational program must directly support the educational goals, objectives and measurable pupil outcomes delineated in the school's charter petition.

- Assistance to grant recipient in identifying and implementing an effective staffing structure and professional development program that will support the achievement of the educational goals, objectives and measurable pupil outcomes delineated in the school's charter petition.

- Assistance to the grant recipient in identifying and implementing an effective governance structure for the school, including a process to ensure parent involvement that is aligned with the governance structure delineated in the charter petition.

Appendix G

PUBLIC CHARTER SCHOOLS GRANT PROGRAM
Assurances and Certifications
(Do not return any of these forms with application)

Public Charter Schools Grant Program
Specific Assurances

The signatures of the authorized agents on the Certificate of Award and Assurances form acknowledge that these specific and general assurances will be observed.

1. This grant shall be administered in accordance with the provisions of California law regarding charter schools and Title X, Part C of the *Improving America's Schools Act of 1994*. Expenditures shall comply with all applicable provisions of federal and state regulations and policies relating to the administration, use and accounting for public school funds. Any interpretations of law, regulations and procedures shall be the sole responsibility of the California Department of Education (CDE).

2. The CDE reserves the authority to require the repayment of received funds, the return of all unused funds, and/or the termination of the grant if the grant recipient fails to meet the terms of this agreement, fails to meet established deadlines, or fails to act in good faith to carry out the activities described in the grant proposal.

3. The charter school or charter developer agrees to use the funding in a manner consistent with their applications as submitted, or as revised and approved by the CDE.

4. The grant recipient agrees to fulfill the performance benchmarks specific to its grant type and submit timely financial and status reports. Failure to do so could result in the forfeiture of the grant and repayment of funds.

5. The grant recipient agrees to cooperate with the U.S. Department of Education, the CDE, the Secretary of Education, and their independent contractors, if any, to conduct any external evaluation of the effectiveness of the grant process.

6. Auditable records will be maintained on file for five years following the grant closing date.

7. The grant recipient's name will be used in all communications.

General Assurances
California Department of Education

Discrimination

As the duly authorized representative of the applicant, I certify that the applicant will comply with all federal statutes relating to nondiscrimination, including (a) Title VI of the Civil Rights Act of 1964 (45 *United States Code* [*USC*] sections 2000d through 2000d-4) prohibiting discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972 (20 *USC* sections 1681-1683) prohibiting discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 (20 *USC* Section 794) prohibiting discrimination on the basis of handicap; and The Age Discrimination Act (42 *USC* Section 6101, *et seq*.) prohibiting discrimination on the basis of age.

Costs

As the duly authorized representative of the applicant, I certify that the applicant will comply with the general cost principles set forth in federal regulations, 34 *Code of Federal Regulations* (*CFR*) Section 74.27 and 34 *CFR* Section 80.22, and the Office of Management and Budget circulars applicable to my entity.

I further certify that the applicant will comply with the expenditure requirements set forth in the federal Education Department Guidelines and Administrative Regulations (EDGAR) contained in Title 34 of the *CFR*.

Records

As the duly authorized representative of the applicant, I certify that the applicant will make reports to the state or federal agency designated in the application as may reasonably be necessary to enable those agencies to perform their duties. The applicant will maintain and provide access to all records used in the preparation of such reports for a period of five years. Such records shall include, but not be limited to, records which fully disclose the amount and disposition by the recipient of funds, the total cost of the activity for which the funds are used, the share of the cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activities for which the funds are used.

Applicable Law

As the duly authorized representative of the applicant, I certify that the applicant will comply with all state and federal statutes, regulations, program plans, and eligibility requirements applicable to each program under which federal and state funds are made available through the application.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 *Code of Federal Regulations* Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled A Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	

SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

Certification Regarding State and Federal Drug-Free Workplace Requirements

Grantees Other Than Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *Code of Federal Regulations* (*CFR*) Part 85, Subpart F, for grantees, as defined at 34 *CFR* Part 85, Sections 85.605 and 85.610

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace
(2) The grantee's policy of maintaining a drug-free workplace
(3) Any available drug counseling, rehabilitation, and employee assistance programs
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement
(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f)

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address. city, county, state, zip code)

Check **[ ]** if there are workplaces on file that are not identified here.

Grantees Who Are Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *CFR* Part 85, Subpart F, for grantees, as defined at 34 *CFR* Part 85, Sections 85.605 and 85.610

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction to every grant officer or designee, in writing, within 10 calendar days of the conviction. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

_____
NAME OF APPLICANT

_____
NAME OF PROJECT

_____
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

_____ _____
SIGNATURE DATE

CERTIFICATION REGARDING LOBBYING

Applicants must review the requirements for certification regarding lobbying included in the regulations cited below before completing this form. Applicants must sign this form to comply with the certification requirements under 34 *Code of Federal Regulations* (*CFR*) Part 82, "New Restrictions on Lobbying." This certification is a material representation of fact upon which reliance was placed when this transaction was entered into.

As required by Section 1352, Title 31 of the *U.S. Code*, and implemented at 34 *CFR* Part 82, for persons entering into Federal contract, grant or cooperative agreement over $100,000, as defined at 34 *CFR* Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants and contracts under grants and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certification.

_____
NAME OF APPLICANT

_____
PROJECT NAME

_____
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

_____ _____
SIGNATURE DATE

Appendix H

Education Department General Administrative Regulations For Appealing Decisions related to the PCSGP

34 *Code of Federal Regulations* Section 80.43 **Enforcement**

(a) Remedies for noncompliance. If a grantee or subgrantee materially fails to comply with any term of an award whether stated in a federal statute or regulation, an assurance, in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions as appropriate in the circumstances:….

(3) wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program.

(b) Hearings, appeals. In taking an enforcement action, the awarding agency will provide the grantee or subgrantee an opportunity for such hearing, appeal, or other administrative proceeding to which the grantee or subgrantee is entitled under any statute or regulation applicable to the action involved.

34 *Code of Federal Regulations* Section 76.783 **State educational agency action—subgrantee's opportunity for a hearing**

(a) A subgrantee may request a hearing if it alleges that any of the following actions by the State educational agency violated a State or Federal statute or regulation:

(1) Ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds; or

(2) terminating further assistance for an approved project.

(b) The procedures in Section 76.401(d)(2)-(7) apply to any request for a hearing under this section.

34 *Code of Federal Regulations* Section 76.401 (c) (d) (2)-(7)

(c) If an applicant for a subgrant alleges that any of the following actions of a State educational agency violates a State or Federal statute or regulation, the State educational agency and the applicant shall use the procedures in paragraph (d) of this section:

(1) Disapproval of or failure to approve the application or project in whole or in part.

(2) Failure to provide funds in amounts in accordance with the requirements of statutes and regulations.

(d) State educational agency hearing procedures.

(2) If the applicant applied under a program not listed in paragraph (a) of this section, the State educational agency shall provide an opportunity for a hearing either before or after the agency disapproves the application.

(3) The applicant shall request the hearing within 30 days of the action of the State educational agency.

(4) (i) within 30 days after it receives a request, the State educational agency shall hold a hearing on the record and shall review its action.

(ii) No later than 10 days after the hearing the agency shall issue its written ruling, including findings of fact and reasons for the ruling.
(iii) If the agency determines that its actions was contrary to State or Federal statutes or regulations that govern the applicable program, the agency shall rescind its action.

(5) If the State educational agency does not rescind its final action after a review under this paragraph, the applicant may appeal to the Secretary. The applicant shall file a notice of the appeal with the Secretary within 20 days after the applicant has been notified by the State education agency of the results of the agency's review. If supported by substantial evidence, findings of fact of the State educational agency are final**.**

Appendix I
Non-Regulatory Guidance
Title V, Part B
Charter Schools Program

The Charter Schools Program (CSP) was authorized in October 1994, under Title X, Part C of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, 20 U.S.C. 8061-8067. The program was amended in October 1998 by the Charter School Expansion Act of 1998 and in January 2001 by the No Child Left Behind Act of 2001. The program, which provides support for the planning, program design, and initial implementation of charter schools, is intended to enhance parent and student choices among public schools and give more students the opportunity to learn to challenging standards. Enhancement of parent and student choices will result in higher student achievement, however, only if sufficiently diverse and high-quality choices, and genuine opportunities to take advantage of those choices, are available to all students. Every student should have an equal opportunity to attend a charter school.

The non-regulatory guidance addresses questions the Department has received regarding various provisions of the CSP statute, including those related to student admissions to charter schools, the use of lotteries, private school conversions, and the involvement of for-profit organizations in charter schools. The non-regulatory guidance also addresses how businesses, faith-based communities and other community-based organizations and individuals associated with them can be involved in the development and operation of charter schools. These guidelines do not contain all of the information you will need to comply with CSP requirements, but are intended to provide guidance on the CSP and examples of ways to implement it. For additional information about the CSP, please contact the Charter Schools Program office, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E116, Washington, D.C. 20202-5961. Telephone: (202) 260-1882.

General Provisions of the Charter Schools Program (CSP)

What is the purpose of the CSP?

The primary purpose of the CSP (Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB)), is to expand the number of high-quality charter schools available to students across the Nation by providing Federal financial assistance for charter school program design, initial implementation, and planning; and to evaluate the effects of charter schools, including their effects on students (in particular, on student academic achievement), staff, and parents. The program also encourages, through the use of funding priorities, the creation of strong charter school laws, in the States, that are designed to provide for the establishment of high-quality charter schools. An additional purpose (embodied in the “Per-Pupil Facilities Aid” portion of the program, which has not yet received funding) is to encourage States to provide support to charter schools

for facilities financing in amounts commensurate with the amounts they have typically provided for traditional public schools.

How does the statute define a charter school?

Charter schools are established according to individual State charter school laws. The enactment of State charter school laws is solely a State prerogative, and the definition of a “charter school” under State law is a matter of State policy. However, in order to receive CSP funds, a charter school must meet the definition in Section 5210(1) of ESEA, which is as follows:

“The term ‘charter school’ means a public school that:

In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph [the paragraph that sets forth the Federal definition];
Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;
Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;
Provides a program of elementary or secondary education, or both;
Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;
Does not charge tuition;
Complies with the Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and Part B of the Individuals with Disabilities Education Act;
Is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;
Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program [the PSCP];
Meets all applicable Federal, State, and local health and safety requirements;
Operates in accordance with State law; and
Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.”

What new provisions enacted by NCLB affect the operation of the CSP?

NCLB amended the CSP in two key ways:

NCLB amended the definition of “eligible applicant” under the CSP to eliminate the requirement that a charter school developer enter into a partnership with an authorized public chartering agency in order to qualify for a CSP start-up grant. Under the new legislation, an eligible applicant that is not a State Educational Agency (SEA) must (a) apply to an authorized public chartering agency for a charter; and (b) notify that agency of its application for CSP funds. The Secretary or the SEA may waive these requirements in cases where the eligible applicant is applying for a pre-charter planning grant or subgrant (ESEA § 5210(3); 20 U.S.C. 7221i(3)).

NCLB amended the CSP by adding a specific provision prohibiting local educational agencies (LEAs) from deducting funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant voluntarily enters into a mutually agreed upon arrangement for administrative services with the LEA (ESEA § 5204(f)(4)(B); 20 U.S.C. 7221c(f)(4)(B)). This provision puts into law, the Department’s interpretation of the Office of Management and Budget’s cost principles.

In addition to the provisions of Title V, Part B, Subpart 1 of ESEA, what other significant Federal statutory and regulatory authorities apply to the CSP?

Recipients of funds under this program should be aware of the following significant statutory requirements in addition to those in Title V, Part B, Subpart 1 (formerly Title X, Part C) of the ESEA: (a) the definitions set out in Title IX of ESEA, which establishes general provisions for all programs authorized under ESEA; (b) Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin; (c) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; (d) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability; (e) the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age; (f) Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability by public entities, including public charter schools and public school districts, regardless of whether they receive Federal financial assistance; and (g) Part B of the Individuals with Disabilities Education Act, which requires States to make available a free appropriate public education to children with disabilities. The Education Department General Administrative Regulations (EDGAR), Parts 75, 76, 77, 79, 80, 81, 82, 85, and 86 also apply to this program.

Eligibility and Use of Funds

Which SEAs are eligible to apply for a CSP grant?

SEAs in States with a specific State statute authorizing the establishment of charter schools are eligible to apply for CSP grants. An “eligible applicant” (defined as a charter school developer that has applied for a charter and notified the charter granting entity of its application for CSP funds) in such States may apply to the SEA for a subgrant.

What if a State elects not to participate or does not have an application approved?

If a State elects not to participate in the CSP or is denied funding, an eligible applicant may apply directly to the Department for a grant. Charter schools located in States that have not enacted charter school legislation do not qualify as eligible applicants (ESEA § 5210(1)(A), 5202(a) and (b); 20 U.S.C. 7221i(1)(A)).

May the Secretary or the SEA waive any eligibility or application requirements?

Although the statute permits a charter school to apply for and receive (from the Secretary or the SEA, as the case may be) waivers of statutory and regulatory requirements, it prohibits waivers of any requirement relating to the elements of a "charter school," as defined in section 5210(1) of ESEA. As stated in A-3 above, however, in the case of an application for a pre-charter planning grant, the Secretary or the SEA may waive the requirements that an eligible applicant (a) apply for a charter; and (b) notify the charter granting entity of its CSP application. In accordance with section 5204(e), the eligible applicant must request the waiver in its CSP application.

How may CSP grant funds be used?

SEAs may use CSP funds to award subgrants to charter schools in the State, and charter schools may use the funds only for post-award planning and design of the educational program, and for initial implementation of a charter school. Planning and implementation grants may be awarded for a period of up to three years, with no more than 18 months used for planning and program design, and no more than two years used for initial implementation of the charter school. SEAs may also reserve up to 5 percent of CSP grant funds for administrative expenses related to operating the charter school grant program, and up to 10 percent of their CSP grant funds to support dissemination activities. These dissemination activities are carried out through separate dissemination grants to charter schools and may be awarded for a period of up to two years.

What are dissemination grants?

Dissemination grants are awarded to charter schools to support activities that help open new public schools (including public charter schools) or share the lessons learned by charter schools with other public schools. The following activities may qualify as dissemination activities: (a) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and its developers and that agree to be held to at least as high a level of accountability as the assisting charter school; (b) developing partnerships with other public schools designed to improve student performance; (c) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and (d) conducting evaluations and developing materials that document the successful

practices of the assisting charter school and that are designed to improve student performance in other schools.

Who is eligible to apply for a dissemination grant?

A charter school may apply for a dissemination grant, regardless of whether it has applied for or received a planning or implementation grant under the CSP, if the charter school has been in operation for at least three (3) consecutive years and has demonstrated overall success, including the following: (a) substantial progress in improving student achievement; (b) high levels of parent satisfaction; and (c) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school. For more information about dissemination grants, see section 5204(f)(6) of ESEA, 20 U.S.C. 7221c(f)(6).

What are some limitations on the use of dissemination funds?

Like all Federal grants, CSP dissemination grants must be used in accordance with statutory and regulatory requirements. A charter school may not use dissemination grant funds, either directly or through a contractor, for marketing or recruitment activities designed to promote itself or the programs offered by it or by a contractor to parents or the community. In particular, grant funds may be used to develop materials documenting successful practices of the charter school for the educational purpose of assisting other public schools in improving student achievement, but not for the purpose of recruiting students or promoting the program of the school or its contractor. Any charter school receiving a dissemination grant should provide thorough and high-quality information that meets the needs of other schools trying to learn from the charter school's experience.

Is a private school eligible to receive CSP funds?

No, only charter schools that meet the definition of a "charter school" under ESEA are eligible to receive CSP funds. Section 5210(1) defines a charter school as, among other things, a "public school" that is created by a developer as a public school, or adapted by a developer from an existing public school, and operated under public supervision and direction (§ 5210(1)(B) of ESEA).

Is a private school that converts to charter status eligible to receive CSP funds?

As stated in B-8 above, the statute defines a charter school as a newly created public school or one adapted from an existing public school. There is no provision or mechanism in the law that recognizes conversions of private schools into public charter schools. On the other hand, the statute does not prevent a newly created public school from using resources previously used by a closed private school or from involving the parents and teachers who may have been involved in the closed private school.

It should be noted, however, that any newly created public school must be just that; it cannot be a continuation of a private school under a different guise. The public charter school must be separate and apart from any private school. It must be established as a public school, and comply with applicable State and Federal laws regarding public schools. In its creation, development, and operation, the charter school must not have any affiliation “with a sectarian school or religious institution” (§ 5210(1)(E) of ESEA). Because a newly created public school would not have any "previously enrolled" students, all students would need to apply for admission and would have to be selected by lottery if there are more applicants than spaces available. Similarly, the charter school must inform the community of its public school status and have a fair and open admissions process.

Is a for-profit entity that holds a legal charter eligible to apply for a grant or subgrant?

A for-profit entity does not qualify as an eligible applicant for purposes of the CSP. A charter school receiving CSP funds may, however, enter into a contract with a for-profit entity to have the for-profit entity manage the charter school on a day-to-day basis. The charter school also must supervise the administration of the CSP grant and is directly responsible for ensuring that grant funds are used in accordance with statutory and regulatory requirements. (See EDGAR, Part 75, Subpart F.)

Lottery, Recruitment, and Admissions

What is a lottery for purposes of the CSP?

A lottery is a random selection process by which applicants are admitted to the charter school.

Under what circumstances must a charter school use a lottery?

A charter school receiving CSP funds must use a lottery if more students apply for admission to the charter school than can be admitted. A charter school with fewer applicants than spaces available does not need to conduct a lottery.

Are weighted lotteries permissible?

Weighted lotteries (lotteries that give preference to one set of students over another) are permitted only when they are necessary to comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Equal Protection Clause of the Constitution, or applicable State law.

In addition, a charter school may weight its lottery in favor of students seeking to change schools under the public school choice provisions of ESEA Title I, for the limited purpose of providing greater choice to students covered by those provisions. For

example, a charter school could provide each student seeking a transfer under Title I with two or more chances to win the lottery, while all other students would have only one chance to win.

May a charter school exempt certain categories of applicants from the lottery and admit them automatically?

A charter school that is oversubscribed and, consequently, must use a lottery, generally must include in that lottery all eligible applicants for admission. A charter school may exempt from the lottery only those students who are deemed to have been admitted to the charter school already and, therefore, do not need to reapply.

Specifically, the following categories of applicants may be exempted from the lottery on this basis: (a) students who are enrolled in a public school at the time it is converted into a public charter school; (b) siblings of students already admitted to or attending the same charter school; (c) children of a charter school's founders (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment); and (d) children of employees in a work-site charter school (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment). When recruiting students, charter schools should target all segments of the parent community. The charter school must recruit in a manner that does not discriminate against students of a particular race, color, national origin, religion, or sex, or against students with disabilities; but the charter school may target additional recruitment efforts toward groups that might otherwise have limited opportunities to participate in the charter school's programs. Once a student has been admitted to the charter school through an appropriate process, he or she may remain in attendance through subsequent grades. A new applicant for admission to the charter school, however, would be subject to the lottery if, as of the application closing date, the total number of applicants exceeds the number of spaces available at the charter school.

May a charter school create separate lottery pools for girls and boys, in order to ensure that it has a reasonably equal gender balance?

No, the legislation requires a charter school receiving CSP funds to hold one lottery that provides qualified students with an equal opportunity to attend the school. Therefore, a charter school receiving funds under the program is precluded from holding separate lotteries for boys and girls. Nor may a school weight its lottery in favor of one gender over another. A school seeking to avoid gender imbalance should do so by targeting additional recruitment efforts toward male or female students.

May a tuition-based private preschool program that becomes a public charter school at the kindergarten level permit children enrolled in the preschool program to continue in the elementary program without going through a lottery process?

No, because the preschool program is private, charges tuition, and most likely does not admit all students, allowing its students to gain admission to the elementary program without going through a lottery process would violate the statute. Therefore, all applicants to the charter school (the elementary program) would have to be selected by lottery if there are more applicants than there are spaces available.

However, the statute does not preclude an elementary charter school in this type of situation from holding its lottery a few years early – e.g., when students are ready to enroll in the preschool. Under this approach, the charter school would have an affirmative responsibility to inform prospective applicants that winning the lottery would not require them to enroll in the private preschool. Thus, any child selected through the lottery would be guaranteed a slot in kindergarten, a few years later, whether or not she or she enrolls in the preschool program.

Additionally, given the high mobility of children and families, schools that choose to exercise this option should ensure that families new to the area or who were not aware of the previous lottery are given the opportunity to apply for admission. Such actions must meet the admissions requirements of the CSP and might include holding a second lottery to fill vacancies created by normal attrition or failure of early lottery winners to enroll in the charter school.

May a charter school receiving its final year of CSP funds select students for the next school year (when the school will not be receiving program funds) without using a lottery?

A charter school receiving its final year of CSP funds may select students for the upcoming school year without using a lottery, provided that the school obligates all funds under its CSP grant before those students actually enroll in the school. If the school has carry-over funds or extends its grant period, then it must continue to meet all program requirements, including the requirement to hold a lottery if it receives more applications for enrollment than it can accommodate for the upcoming school year.

In addition to Title V, Part B, Subpart 1 of the ESEA, what other statutory or regulatory authorities should a charter school consider when developing its admissions policies?

To be eligible for Federal start-up grants, a charter school's admissions practices must comply with State law and applicable Federal laws. Exemptions from enrollment lotteries are permissible only to the extent that they are consistent with the State's charter school law, other applicable State law, the school's charter, and any applicable Title VI desegregation plans or court orders requiring desegregation. A charter school's

admissions practices must also comply with Part B of the Individuals with Disabilities Education Act and Federal civil rights laws, including, but not limited to, Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, as applicable.

What are a charter school's responsibilities with regard to outreach and recruitment?

Section 5203(b)(3)(I) of ESEA requires CSP applicants to inform students in the community about the charter school and to give each student "an equal opportunity to attend the charter school" (20 U.S.C. 7221b(b)(3)(I)). Further, section 5203(b)(3)(E) requires charter schools receiving CSP grants or subgrants to involve parents and other members of the community in the planning, program design, and implementation of the charter school. 20 U.S.C. 7221b(b)(3)(E).

May a charter school receiving CSP funds set minimum eligibility criteria for admission to the charter school?

The ESEA does not specifically prohibit charter schools from setting minimum qualifications for determining who is eligible to enroll in a charter school and, thus, to be included in the lottery. As stated above, however, charter schools receiving CSP funds must inform students in the community about the charter school and give them an "equal opportunity to attend the charter school."

Thus, a charter school funded under the CSP may set minimum qualifications for admission only to the extent that such qualifications are: (a) consistent with the statutory purposes of the CSP; (b) reasonably necessary to achieve the educational mission of the charter school; and (c) consistent with civil rights laws and Part B of the Individuals with Disabilities Education Act. CSP grantees should consider using program funds to assist "educationally disadvantaged" and other students to achieve to challenging State content and performance standards.

Involvement of Religious and Community-Based Organizations With Charter Schools

May a charter school be religious in nature?

No. As public schools, charter schools must be non-religious in their programs, admissions policies, governance, employment practices and all other operations, and the charter school's curriculum must be completely secular. As with other public schools, charter schools may not provide religious instruction, but they may teach about religion from a secular perspective. And though charter schools must be neutral with respect to religion, they may play an active role in teaching civic values. The fact that some of these values are also held by religions does not make it unlawful to teach them in a charter school. Furthermore, as discussed below, faith-based and religious organizations can be involved with charter schools in many ways, and religious

expression by students is allowed in charter schools to the same extent as in other public schools. See also the Department's guidance on Constitutionally protected prayer in public elementary and secondary schools of ESEA, available at http://www.ed.gov/policy/gen/guid/religionandschools/index.html.

May charter schools use public funds to support religious programs or activities?

No. All activities of a charter school must be non-religious, as is the case for all public schools. Public funds may not be used for religious purposes or to encourage religious activity. In addition, even if funded by non-public sources, religious activity may not be conducted, promoted, or encouraged during charter school activities by charter school employees or by other persons working with charter schools. However, to the extent that their involvement promotes academic learning and the mission of the charter school, religious organizations and their members may partner with and be involved with charter schools so long as the charter school's decision to partner with the religious organization is made without regard to the religious character or affiliation of the organization and is not otherwise reasonably perceived as an endorsement of religion.

May charter schools enter into partnerships with religious organizations to provide secular services?

Yes. Like other public schools, charter schools may enter into partnerships with community groups for secular purposes, such as tutoring or recreational activities. Religious groups may be partners for these types of activities so long as charter schools select partners without regard to their religious affiliation, ensure that no public funds are used for religious purposes, and do not engage in or encourage religious activity. Charter schools may not limit participation in the partnership to religious groups or certain religious groups, and they may not select students or encourage or discourage student participation with particular partners based on the religious or secular nature of the organization.

May charter schools use the facilities of a religious organization?

Yes. A charter school may use the facilities of a religious organization to the same extent that other public schools may use these facilities. Generally, this means that a charter school may lease space from a religious organization so long as the charter school remains non-religious in all its programs and operations. Most importantly, a landlord affiliated with a religion may not exercise any control over what is taught in the charter school.

May charter schools conduct outreach activities in churches or through religious organizations?

Yes. A charter school's outreach and recruitment activities should be designed to reach all segments of the parent community. Thus, a charter school may conduct outreach or recruitment activities in churches or through religious organizations as part of a broad-

based and balanced effort to inform parents in the community about the charter school and to recruit a diverse student body.

Can community-based organizations and business entities play a role in charter schools?

Yes. Community-based organizations and businesses can play a positive role in creating and supporting charter schools. Examples of ways in which non-religious organizations can get involved in charter schools include helping to plan or design a new school, developing curriculum and assessment strategies, serving on governing boards, participating in the day-to-day management of charter schools, establishing partnerships with charter schools, and even creating work-site charter schools. A broad range of community-based organizations and businesses are currently involved with charter schools, including plastics and automobile manufacturers; hospitals, museums, and homeless shelters; and courts and social service agencies. Like all charter schools, charter schools operated by or affiliated with community-based organizations or business entities must be public schools of choice, must be non-religious, and must operate in a nondiscriminatory manner.

Administrative and Fiscal Responsibilities

What are the administrative and fiscal responsibilities of a charter school grantee under the CSP?

Charter schools receiving CSP grants must comply with applicable statutes, regulations, and approved applications; and must use Federal funds in accordance with those statutes, regulations, and applications. Grantees must directly administer or supervise the administration of the project, and must use fiscal control and fund accounting procedures that ensure proper disbursement of, and accounting for, Federal funds. 34 *CFR* 75.700-75.702.

What are the rules governing “conflicts of interest” in the administration of CSP grants?

CSP grantees must avoid apparent and actual conflicts of interest when administering grants. Department regulations at 34 *CFR* 75.525(a) prohibit a person from participating in an administrative decision regarding a project if (a) the decision is likely to benefit that person or his or her immediate family member; and (b) the person is a public official or has a family or business relationship with the grantee. Section 75.525(b) provides further that a person may not participate in a project to use his or her position for a purpose that is – or gives the appearance of being – motivated by a desire for a private or financial gain for that person or for others. 34 *CFR* 75.525.

What procedures must a CSP grantee follow in order to avoid a "conflict of interest" when purchasing equipment or services?

When using Federal funds to enter into a contract for equipment or services, a charter school must comply with the procurement standards set forth in the Department's regulations at 34 *CFR* 74.40-74.48. Those standards require Federal grant recipients to develop written procurement procedures and to conduct all procurement transactions in a manner to provide, to the maximum extent possible, open and free competition. No employee, officer, or agent of the charter school may participate in the selection, award, or administration of any contract supported by Federal funds if a real or apparent conflict of interest exists. 34 *CFR* 74.42-74.44.

Appendix J
Precharter Grant Application Rubric

The application will be scored using the rubrics below. A numerical score ranging from 0 to 4 will be applied to the response for each criterion. This score will be applied to a factor to calculate the total percentage points earned. A score of 2 in any area renders the application ineligible for funding

- **4 points: Excellent.** There are major strengths contained in the response to the criteria. This score applies to a response that can be overall characterized as very likely to lead to the development of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **3 points: Good**. Strengths outweigh weaknesses. This score applies to a response that contains a number of strengths. There are weaknesses but, neither singly or collectively, are they likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **2 points: Fair.** Some important weaknesses. This score applies to a response that contains some strengths, but some weaknesses are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 2 in any area renders the application ineligible for funding

- **1 point:** Inadequate/Unsatisfactory. Major weaknesses outweigh any strengths. This score applies to a response that contains a number of weaknesses that are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

Precharter grant application criteria:

The capacity and resources of the applicant to successfully open and operate a high quality charter school that meets the goals of the PCSGP. (40 points)

The applicant has provided evidence that the board of the nonprofit entity has knowledge and success in organizational leadership and public education, and has submitted an application that describes:

1. How grant funds will be used to develop and submit an approved charter.
2. Rigorous, relevant, and attainable student achievement outcomes for all students attending the school.
3. The use of data to establish, evaluate, and improve the education program and school policies.
4. Effective practices for the oversight of finances.

The level of community and parent support for the proposed school. (30 points)

The applicant describes coordinated partnerships with parents and the community that will contribute to student learning, communication, school governance, school resources, and diversity.

The proposed school will be located in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act and has an API state ranking of 1 or 2. (20 preference points) (These points will be automatically assigned to qualifying applications.)

The majority of the proposed school's enrollment will be secondary students who qualify for the above preference points. (10 preference points) (These points will be automatically assigned to qualifying applications.)

Appendix K
Planning and Implementation Grant Rubric

The information provided in the approved charter will be scored using the rubrics below. A numerical score ranging from 0 to 4 will be applied to the response for each criterion. This score will be applied to a factor to calculate the total percentage points earned. A score of 1 or 2 in any area renders the application ineligible for funding.

- **4 points: Excellent.** There are major strengths contained in the response to the criteria. This score applies to a response that can be overall characterized as very likely to lead to the development of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **3 points: Good**. Strengths outweigh weaknesses. This score applies to a response that contains a number of strengths. There are weaknesses but, neither singly or collectively, are they likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA.

- **2 points: Fair**. Some important weaknesses. This score applies to a response that contains some strengths, but some weaknesses are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 2 in any area renders the application ineligible for funding

- **1 point: Inadequate/Unsatisfactory**. Major weaknesses outweigh any strengths. This score applies to a response that contains a number of weaknesses that are likely to adversely impact the development and operation of a high quality charter school that will meet the goals and priorities of the PCSGP stated in the RFA. A score of 1 in any area renders the application ineligible for funding.

Planning and Implementation grant application criteria:

The likelihood that the school's education program, including goals and objectives, curriculum and instructional strategies, assessment, and evaluation will result in increased student academic performance as measured by the State's standardized testing program and achieving Adequate Yearly Progress under NCLB. (40 points)

The approved charter comprehensively describes:

1. A rigorous, relevant, and attainable education program for all students (including high and low achievers, English learners, and special education students), including a standards-based curriculum, instructional strategies, materials, and technology aimed at the targeted population, that is founded on cited research-based educational practices, and is compliant with all laws and regulations applicable to California's charter schools.
2. The approved charter describes a comprehensive plan for faculty recruitment, hiring and retention of highly qualified teachers with subject area knowledge that is likely to support student achievement and collaborative learning for all students.
3. The approved charter identifies measurable student outcomes for all students including high and low achievers, special education students, and English learners, and describes the effective use of data to establish, evaluate, and improve policies and progress toward identified student outcomes.
4. The approved charter describes policies and procedures that are likely to promote effective communication between parents and teachers, administrators, and counselors.
5. The approved charter describes how parents will be involved in the planning, program design and implementation of the charter school.

The likelihood that the management plan, which describes governing board capacity, organizational structure, roles and responsibilities, and data driven

decisions, will create, support, and sustain a high quality charter school. (30 points)

The approved charter describes:

1. A governing board that has knowledge and success in organizational leadership and public education, including professional experience relevant to the focus and mission of the educational program of the school.
2. A governance structure that is free from conflicts of interest, has clear lines of authority, and internal fiscal controls.
3. Differentiated roles and responsibilities for board members and staff.
4. The use of data to establish, evaluate, and improve the education program and school policies.
5. Effective practices for the oversight of finances.
6. Recruitment and admissions policies and procedures (including a description of the process for a public random drawing when admissions applications exceed the enrollment capacity of the school) that are in compliance with state **and** federal law. (See appendices.)

The school's plan to serve students who reside in the attendance area of a traditional public school that is identified to be in Program Improvement Years 3, 4, or 5 under Title 1, Part A of the Elementary and Secondary Education Act and has an API state ranking of 1 or 2. (20 preference points)

If applicant is applying for preference, the approved charter comprehensively describes programs, policies, and strategies for recruiting, enrolling, and retaining and enrollment consisting of a majority of students who meet this preference criterion.

The majority of the school's enrollment will be secondary students who qualify for the above preference points. (10 preference points) (These points will be automatically assigned to qualifying applications.)

ITEM #23

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Petition by the New West Charter School to Renew a Charter School under the Oversight of the State Board of Education: Hold Public Hearing and Approve	☒ Action ☒ Information ☒ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) and the Advisory Commission on Charter Schools (ACCS) recommend that the State Board of Education (SBE) hold a public hearing on the New West Charter School (New West) petition to renew the school's charter.

Following the public hearing, the CDE and the ACCS recommend that the SBE take the following action:

- Approve the New West petition to renew the charter school for a five-year period beginning July 1, 2007, and ending June 30, 2012, subject to the conditions for continued operation as set forth in Attachment 1, and incorporating the additions and changes to the charter petition proposed by the CDE and the ACCS.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Pursuant to *Education Code (EC)* Section 47605(k)(3), at the point of renewal, a charter school that has been granted a charter by the SBE on appeal must first submit its renewal petition to the school district that initially denied the charter. If the charter renewal is denied by the school district, then the charter school may submit the renewal petition to the SBE.

New West was originally granted a charter by the SBE in December 2001 after the petition was denied by the Los Angeles Unified School District (LAUSD). The initial charter was for a period of three years (2002-03 through 2004-05). However, for a variety of reasons (principally related to facilities and special education), the school's opening was delayed to 2003-04. Therefore, in November 2004, the SBE extended the initial charter approval period by one year (2005-06) to June 30, 2006.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION (Cont.)

During 2005, a number of concerns regarding New West's financial practices were brought to the attention of CDE staff. The CDE Audits and Investigations (A&I) Division conducted a limited-scope review and the Fiscal Crisis and Management Assistance Team (FCMAT) conducted a follow-up audit of New West's internal financial policies and procedures. Both reviews identified weaknesses in internal controls and recommended specific actions to be taken to strengthen and implement procedures. Based on the academic success of New West and the conscientious efforts to rectify weak financial practices, the SBE, in March 2006, approved the extension of the initial approval by one year (2006-07), thereby providing New West with a total of four years of initial operation.

At its meeting in May 2007, the SBE approved an additional one-year extension (2007-08) of New West's charter in order to provide ample time for the LAUSD Board of Education to consider and take action on renewal of New West's charter pursuant to *EC* Section 47605(k)(3) and, if necessary, for the ACCS and SBE to act. The renewal was still pending before the LAUSD board in early May and New West's charter was to expire June 30, 2007. The SBE also wanted to provide some degree of assurance to students and staff of New West that the school would continue to operate in 2007-08.

SUMMARY OF KEY ISSUES

The LAUSD Board of Education denied New West's petition for renewal on May 22, 2007. The school immediately submitted its renewal request to the SBE in accordance with statute.

EC Section 47607 establishes various threshold criteria for renewal of charter schools, stating that at least one of the criteria must be met as a condition of renewal. It is clear that New West meets all four of the renewal criteria.

On the basis of New West's strong academic record and assurances from FCMAT that the school has done an excellent job in implementing audit recommendations, the ACCS acted at its meeting on June 4, 2007, to unanimously recommend approval of the renewal request to the SBE. Approval would be contingent upon the development of an MOU between New West and the CDE that covers elements essential to effective state oversight of the school that are not incorporated in the charter itself. The ACCS also recommended the CDE staff comments and recommendations on the charter be included.

FISCAL ANALYSIS (AS APPROPRIATE)

Operation of New West, per se, has essentially no fiscal impact on the state as a whole. If affected students were not being served at New West, they would most likely be served at another public school. There would be little (if any) effect on the total amount of state local assistance funding to public schools. To the extent students attend New

FISCAL ANALYSIS (AS APPROPRIATE) (Cont.)

West, the funding to support those students is merely redirected from other public schools. State costs overall are essentially the same.

There are currently two full-time equivalent CDE staff positions assigned to oversee the SBE-approved charter schools, including the two statewide benefit charter school, and the eight all-charter districts (which are jointly approved by the SBE and the State Superintendent of Public Instruction), as well as to provide some essential business functions that support these schools and districts. SBE approval of this charter renewal would continue the current workload, but the CDE would be entitled to recover the actual costs of oversight up to one percent of the general purpose and categorical block grant revenues generated by the school.

ATTACHMENT(S)

Attachment 1: CDE Staff Analysis of the Request for Charter Renewal from the New West Charter School (13 Pages)

Attachment 2: New West Charter School Petition (95 Pages)

California Department of Education

M e m o r a n d u m

Date: June 4, 2007

To: Advisory Commission on Charter Schools

via: Marta Reyes, Director
Charter Schools Division

From: Deborah Domitrovich

Subject: CDE Staff Analysis of the Request for Charter Renewal from the New West Charter School

The New West Charter School (New West) has met the threshold requirement for renewal under *Education Code* (*EC*) Section 47607(b), and the school's charter (as revised) is generally consistent with the requirements of *EC* Section 47605. Therefore, California Department of Education (CDE) staff recommend that the school's charter be renewed for the five-year period specified in *EC* Section 47607(a), commencing July 1, 2007, and ending June 30, 2012. CDE staff also recommend that the renewal be conditioned upon execution (and periodic amendment, as necessary) of a memorandum of understanding with the CDE that covers all matters essential to effective oversight of the school's operation during the renewal period, including, but not limited to, continued participation in a Special Education Local Plan Area (SELPA). Finally, periodically in the analysis that follows, CDE staff recommends a few specific modifications of the revised charter.

Background

New West was granted a charter by the State Board of Education (SBE) in December 2001, after being denied by the Los Angeles Unified School District (LAUSD) governing board. However, for a variety of reasons (principally related to facilities and special education), the school's opening was delayed to 2003-04.

In accordance with *EC* Section 47605(k), New West submitted a request for renewal to the LAUSD governing board January 12, 2007. The LAUSD governing board denied the renewal request (on May 22, 2007), citing primarily that New West's description of admission procedures and student discipline did not meet *Education Code* requirements. The district also identified additional areas that it felt were not addressed in a reasonably comprehensive manner, including the home-school contract,

measurable outcomes, and components of the education program that were not sufficiently fleshed out.
Since New West's renewal request has been formally denied by the LAUSD governing board, the matter is now properly before the Advisory Commission on Charter Schools (ACCS) and the SBE.

Threshold Requirement for Renewal

EC Section 47607(b) establishes a threshold requirement for renewal of a charter as meeting at least one of the following criteria:

(1) Attaining Academic Performance Index (API) growth targets in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) Academic performance that the charter authorizer determines to be at least equal to the academic performance of the public schools that the charter school's pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

As the attached tables show, New West has met all four thresholds. The school has shown consistently strong academic performance over its four years of existence (statewide and similar schools rankings 7-10 in the first three years for which data is available), the API was slightly over 800 in the last two years, and the actual growth exceeded growth targets by 29 points in 2004-05 and by 25 points in 2005-06.

Academic Performance Index (API)	2004-05	2005-06	2006-07
Ranking (Statewide / Similar Schools)	7 / 9	8 / *	8 / 10
Base API	752	783	803
Growth API	783	809	N/A
Growth Target	2	1	N/A
Actual Growth	+31	+26	N/A

* Invalid data prevented calculation of similar schools ranking.

Of LAUSD's 92 middle schools, New West outperformed all but three in terms of its API of 803 in 2006-07. Five LAUSD middle schools received a statewide API ranking equal

to New West (8) and only two schools received rankings higher (9). Comparisons of the significant subgroups served by New West and LAUSD in 2006-07 indicate that in every instance New West outperformed the district, generally by 100 points or more.

Comparison of 2006-07 Subgroup Base API	New West	LAUSD	Difference
African American	754	606	+148
Hispanic or Latino	786	630	+156
White	848	807	+41
Socioeconomically Disadvantaged	757	635	+122

California Standards Tests (Percent Proficient and Advanced)	2004	2005	2006
English-Language Arts (grades 6-8 combined)	45%	58%	61%
LAUSD Comparison Figure	*21%*	*25%*	*27%*
Mathematics (grades 6-7 combined)	37%	46%	54%
LAUSD Comparison Figure	*21%*	*25%*	*26%*
Algebra I (grade 8)	7%	20%	18%
LAUSD Comparison Figure	*14%*	*11%*	*19%*
History-Social Science (grade 8)	35%	40%	43%
LAUSD Comparison Figure	*16%*	*17%*	*20%*
Science (grade 8)	NA	NA	41%
LAUSD Comparison Figure	*NA*	*NA*	*25%*

Student Demographics*	2004	2005	2006
African American	39%	31%	22%
LAUSD Comparison Figure	*12%*	*11%*	*11%*
Asian	6%	7%	6%
LAUSD Comparison Figure	*4%*	*4%*	*4%*
Hispanic or Latino	18%	23%	25%
LAUSD Comparison Figure	*73%*	*73%*	*73%*
White	37%	34%	33%
LAUSD Comparison Figure	*9%*	*9%*	*9%*
Economically Disadvantaged	23%	23%	25%
LAUSD Comparison Figure	*73%*	*77%*	*79%*
English Learners	0%	0%	<1%
LAUSD Comparison Figure	*81%*	*81%*	*79%*

* Ethnicity from California Basic Educational Data System. Economically disadvantaged and English learners from Standardized Testing and Reporting Program.

New West has encountered fiscal problems during its first two years of operation related to weak internal controls, related-party transactions, and governing board inexperience coupled with over-reliance on fiscal services providers in monitoring the school's financial resources. The school's independent annual audit for 2003-04 found deficiencies related to internal controls. The school underwent a limited-scope review by the CDE Audits and Investigations (A&I) Division in January 2005 that confirmed the audit findings, and a follow-up audit conducted under the auspices of the Fiscal Crisis and Management Assistance Team (FCMAT) and the Los Angeles County Office of Education (LACOE) that was released in December 2005. The FCMAT audit found that New West had shown signs of improvement since the initial A&I audit, but that the school did not consistently implement proper internal controls. In March 2006, CDE recommended that New West be placed under close financial supervision and subject to periodic site visits by CDE to ensure that audit recommendations were being implemented. According to FCMAT reports and CDE staff observations, New West has done an excellent job during 2006-07 of implementing audit recommendations and generally improving its finances and organization. New West has indicated that it intends to continue its relationship with FCMAT because of the valuable assistance the organization has provided.

CDE staff conducted its annual site visit of New West on April 11, 2007. The primary focus of the visit was to review the educational component of New West's operations. Based on the visit, staff concludes that New West is: (1) making very good progress in correcting problems in governance and organization management that plagued the school during its first years of operation; (2) providing a sound educational program to its students; (3) gaining control over its financial operations and implementing sound financial practices; and (4) generally implementing the provisions of its charter.

On the basis of New West's solid academic achievement over the last four years, FCMAT's confirmation of the school's excellent work in implementing audit recommendations, and the CDE staff site visit, we would recommend that New West's charter be renewed for another five years from July 1, 2007 through June 30, 2012. The MOU will require an annual update and analysis from New West regarding student performance, and in the event the school does not meet growth targets, a progressive set of corrective actions and reporting to the SBE will be required.

Review of Elements of Revised Charter

Generally, the revised charter follows the structure of the existing charter with updates to reflect the passage of time and to indicate where the school is in relation to its outcomes. Highlights and recommended changes to the various charter sections are presented below:

I. Affirmations, Description of the School, and General Provisions of the Charter

In this section, New West provides an historical perspective of how the school came into existence and summarizes progress to date on academic measures. There is an assurances page stating the school's affirmation that it will comply with a number of requirements and there are provisions that address miscellaneous items such as limits on the charter, term of the charter, rights and responsibilities of parents, students and educators, conflict of interest policies, etc.

- *Affirmations* - We recommend modification of the Affirmations page to delete the affirmation that New West "elects to function as a public school within the District and its SELPA" since the school will become an LEA member of another SELPA (pg. 7).

- *Limits on the Charter*- We recommend that the language on page 14 regarding independent study be amended to state the following: *In the interest of maintaining individual student academic progress and minimizing disruption to the educational program as a result of an extended student absence, New West will consider, on a case-by-case basis, the use of short-term independent study contracts for students who receive prior approval for absences due to travel or extended illness, of three or more days in duration. Any such use of independent study will be limited to occasional, incidental instances of extended absences, and will be fully compliant with all applicable independent study laws and regulations. The governing board shall develop and maintain board policies and master agreements in accordance with Education Code Section 51745 et seq. and implementing regulations, and shall ensure, through consultation with the school's auditors, that all forms and procedures are in conformance with independent study law requirements.*

- *Legal Status of the School* - We recommend the last sentence under Legal Status of the School on page 14, which states that the authorizer is not liable for debts and obligations of the school as long as it has complied with all oversight responsibilities. This sentence places inappropriate limits on the SBE that do not belong in the charter.

- *Facilities* - Much of the language in the Facilities section appears to apply if the school had been approved by LAUSD. This language should be removed. Specifically, the steps required to satisfy the district on page 16 should be deleted.

- *School Founders* - The language in the section on School Founders is contrary to provisions that had previously been agreed to by the SBE and CDE defining who is a "founder" for purposes of enrollment preferences. The general policies and practices bulleted on page 19 should be revised to conform to those approved in

the original charter. In no event should any individual be considered a founder unless that individual completed requirements for founder status prior to September 2002.

- *Special Education* - The section on Special Education, on pages 21-24 will need to be revised to reflect the actual SELPA arrangements that New West secures prior to July 1, 2007.

II. Description of the Educational Program

The description of curriculum and instruction, and the theoretical basis for the program, are consistent with the minimum requirements of law and the general objective of the CDE and SBE to promote high quality schools. The school is implementing a program founded on research of the best practices in successful middle schools and it offers a standards-based program designed to prepare students for college preparatory courses in high school. New West provides an integrated curriculum, and a personalized learning environment with small class sizes.

- We recommend modification of the description in the charter of how New West will serve English Learner (EL) students (page 44-45) to reflect the specific programs and strategies the school is using with these students. The current charter contains general descriptions about what the school will do to serve EL students. Although New West's EL population makes up a very small percentage of its student population, the surrounding district has a substantial proportion of EL students and it is possible New West's EL population will increase as well. Therefore, specific information about how those needs are being met, and will be met in the future need to be included in the charter.

- The charter indicates generally the strategies that New West uses to increase learning opportunities and academic achievement of low-achieving or at-risk students; however, specific interventions taking place at the school are not described. Nor is there detailed information on how such students are identified. We recommend that specific information regarding program supports and interventions be included in the charter.

- The original charter proposed a Scholars-in-Residence program that would complement and supplement the core academic program by involving experts in various fields (artists, scientists, writers, etc.) in the classroom or in extracurricular classes. The proposed charter indicates that this program is currently "developing." We recommend information be added to the charter to flesh out program detail and provide a timeline for instituting such a program.

- The charter states that the school incorporates service learning into its program. However, the charter describes information about what should be included in

such a program rather than specific details regarding the program in place at New West. We recommend information be included in the charter regarding the specific program being implemented at the school.

III. Measurable Pupil Outcomes

This section contains exit outcomes in core academics, character development, and lifelong learning for students graduating from New West (pages 50-53). These outcomes are not measurable as stated. Although New West is performing very well on state standardized tests and is meeting API and AYP targets, we recommend the school restate the exit outcomes in specific measurable terms that will allow the school and CDE to determine how many students are meeting the outcomes and at what performance levels.

IV. Method of Assessment

This section includes a statement that New West participates in all required state assessments and describes the multiple measures of student achievement the schools uses. The charter also contains an extensive chart that details what assessments will be used for assessing various exit outcomes. The charter indicates that the overall success of the school is measured by performance on the state tests and the API.

- The section on Statewide Standardized Assessments (pages 54-55) contains (1) a list of statewide tests that New West administers that does not include the CELDT or physical fitness tests, and (2) contains a statement that New West requires that students “meet the minimum levels for satisfactory performance established by the State Board of Education for promotion to the next grade.” We recommend that the additional tests be added to the charter in (1) and that the sentence in (2) be deleted since the State Board does not establish minimum levels for promotion to the next grade.

V. Governance Structure

This section describes New West’s governing board composition and duties.

- The charter originally approved by the State Board required the Director/Principal, teacher representatives and staff representatives to the governing board be non-voting members in order to avoid real or perceived conflicts of interest. The new charter proposes making these representatives voting members of the board (pages 55-56). We recommend that the original language from the charter specifying these representatives be non-voting be restored and that conforming changes be made to the corporate bylaws, if necessary.

- Language indicating the district has a right to appoint a non-voting representative to the governing board should be replaced with language indicating the SBE has a right to appoint a voting representative to the board if it so chooses.

- Page 56 contains a statement which gives the governing board power to appoint new members and alternates to the board by majority vote of the board. We recommend that this language be eliminated and the following language be inserted: "If alternates are not available to fill a vacancy, then the Board may call for an election."

- Language on page 57 describing the number of board members that constitutes a quorum needs to be revised to be consistent with the governing board make up of 9 voting members instead of 13 consistent with our first recommendation above.

- New West needs to make explicitly clear in the charter that its governing board, Executive Committee, and Advisory Board will adhere to all laws governing open meetings (Brown Act), public records and confidentiality.

- New West requires a home-school contract with families in order to strengthen the partnership among parents, students, and teachers. Agreement to the contract is a condition of enrollment each year. Page 62 of the charter states that "non-compliance may result in a student losing his or her enrollment at New West." We recommend that sentence be deleted since it is unfair to penalize a student for failure of the parents to follow through on commitments in the contract.

VI. Qualifications for Employees

This section defines "core" academic areas (reading and language arts, mathematics, science, history, and social science) and includes a statement that teachers of core, subjects will hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in a non-charter public school would be required to hold and describes the qualifications for the school director/principal, teachers, non-credentialed instructional staff, and classified staff. There is a stated commitment to comply with *No Child Left Behind's* (NCLB) "Highly Qualified Teacher" provisions.

The charter states that administrators and instructional staff are employed under employment contracts and that non-instructional staff are at-will employees. Finally, assurances are given that fingerprinting and background clearances will be done for all new employees, and employees of contractors who have contact with the school's students.

VII. Procedures to Ensure Health and Safety of Pupils and Staff.

This section includes a detailed description of the elements contained in the school's health and safety plan, including plans for emergencies and natural disasters, administration of medications, child abuse reporting, student immunizations, etc.

VIII. Racial and Ethnic Balance

This section states the school makes a diligent effort to achieve a racial and ethnic balance that is reflective of the general population residing in the territorial jurisdiction of LAUSD and describes a number of recruitment efforts. The latest data on ethnicity indicates that New West has a greater percentage of African American students (22 percent verses 11 percent) and White students (33 percent verses 9 percent), and a smaller number of Hispanic or Latino students (25 percent verses 73 percent), with roughly an equivalent number of Asian students (6 percent verses 4 percent).

- Page 69 of the charter contains a statement that New West's objective is to achieve the district's goal of a student body that is composed of between 30-70% minority students. We recommend that this language be deleted since the SBE has no such minority enrollment targets.

- One of the recruitment strategies listed on page 70 indicates that informational meetings at public elementary schools will be conducted to inform parents of the educational opportunities available at New West. This language omits the reference in the original charter to informing parents in *underrepresented communities* of the opportunities at New West. We recommend the language be added to the charter to make clear the school is targeting this population for recruitment and enrollment.

IX. Admissions Requirements

This section describes the application, admission, and enrollment procedures for the school and indicates that a random public drawing will be held if the number of applications exceeds space available. Preference is extended for students currently enrolled, children of a specified number of founders, siblings and students who reside in the LAUSD attendance area.

The charter states that the school is nonsectarian in its application, admission, and enrollment policies and does not discriminate against any student on the basis of ethnicity, national origin, gender, or disability, and does not charge tuition.

- The charter on page 72, states that preference for enrollment will be available to applicants who attend or live in the attendance area of Richland Elementary School provided that New West receives funds through the SB 740 Charter

School Facility Grant program. Language stating that preference will be given provided New West receives SB 740 funding should be eliminated. The school must show that it meets a number of criteria, including that it give enrollment preference to students in the attendance area of a public elementary school in which 70 percent or more of the student enrollment is eligible for free or reduced priced meals, before it is eligible for SB 740 funding. Preference should not be contingent upon whether or not New West receives the funding.

- The language on page 72 of the charter indicates that continuing students and siblings may only be eligible for preferential enrollment if parents have complied with the home-school contract. We recommend this language be eliminated because it penalizes students for adult failure to comply with the contract.

- Page 73 of the charter contains a paragraph describing New West's participation in LAUSD's Public School Choice Program which involves accepting transfer students from identified low-performing schools on a space available basis. We recommend that New West report on whether it is in fact participating in such a program, and if the school is not participating, that the language be deleted from the charter.

- The enrollment packet that parents must complete and return prior to their child being accepted at New West is generally described on page 74 of the charter. The actual enrollment application materials contain a number of requirements that, taken as a whole, make the application process quite daunting and may have the potential impact of deterring less sophisticated or limited-English speaking parents from even applying to New West. For example, parents are required to submit STAR test results, if available, the child's report cards, a written statement and school documents describing a remediation plan if the child is not performing at grade level, confidential evaluations from one teacher and one administrator at the child's current school, and a written statement of at least 100 words explaining why the parent(s) have chosen to apply at New West. The application materials also contain statements stressing the importance of a student being able to achieve grade level proficiency as defined primarily by scoring 350 and above on STAR tests, thus possibly leaving the impression that a struggling or marginally successful student should not apply to New West.

- We recommend that the application and enrollment materials be revised for the 2008-09 school year to delete requirements related to: (1) the written statement regarding a remediation plan; (2) the 100 word statement about why New West was chosen; and (3) the evaluations from a current teacher and an administrator.

- Language on page 48 of the charter regarding student promotion and retention refers to "recommendations submitted by former teachers and administrators" as part of New West's assessment of students once they have been admitted to the

school. This reference should be eliminated to conform to our recommendation above. New West may want to add a statement to the materials which indicates that parents are encouraged to submit additional information about their child that they think may be helpful to the school in determining what additional supports the child may need to be successful at New West.

- We recommend that statements in the question and answer section of the application materials which indicate that the SBE has established a minimum performance level of 350 on the STAR tests as adequate for satisfactory performance in the next grade be eliminated. The statements are inaccurate. STAR tests were not intended to be used to determine grade level proficiency.

- Finally, we recommend that this section of the charter include a statement that there shall be no admission criteria, testing or other evaluation required of any applicant. This language was included in the original charter approved by the SBE, but was eliminated from the proposed charter.

X. Annual Audits and Reports

The section describes a process for conducting the annual financial audit that is compliant with statute. To the extent more specific provisions may be necessary for effective charter oversight; they can be incorporated in the memorandum of understanding (MOU) recommended by staff as a condition for renewal of the charter. This section also contains a description of the information that is included in the SARC report. SARC reporting requirements are also addressed in the MOU.

XI. Suspension and Expulsion Procedures

This section provides a detailed list of the offenses for which a student may be suspended or expelled and the process by which that will occur. A suspension or expulsion decision may be appealed to the Executive Committee and the governing board.

XII. Staff Retirement Benefit Issues

This section indicates the type of retirement benefits that may be offered to administrative, instructional, and staff employees, but does not describe specifically which plans are in place for employees. We recommend the charter be amended to describe the actual plan provided by the school.

XIII. Public School Attendance Alternatives

This section makes it clear that no student can be required to attend New West (consistent with law). Students not attending New West have other public school alternatives.

- If a charter school student is expelled, fails to graduate, or ceases enrollment in a charter school for any other reason, legislation that took effect January 1, 2006, requires the charter school to notify the superintendent of the school district within which the student's last known home address is located. We recommend that this language be added to this section of the charter.

XIV. Rights of Employees

This section describes the rights of LAUSD and other districts' employees to work in the charter school and return to the districts. The language is consistent with language in the regulations describing the criteria for review of SBE charter appeals CCR, Title 5, Section 11967.5.1).

XV. Dispute Resolution Procedure

This section describes an internal dispute resolution procedure for disputes arising within New West, and a procedure for resolving disputes with the SBE.

- The internal dispute resolution process on page 82 states that the district shall not intervene in internal disputes unless the matter relates to one of the reasons for potential revocation or it impacts the district's fundamental interests. We recommend this language be removed from the charter because it places limitations on the authorizer's ability to act that are not in statute.

- The charter needs to include a statement regarding dispute resolution between the SBE (as the charter authorizer) and New West to the following effect:

  "Because the State Board of Education (SBE) is not a local education agency, it may choose to resolve any dispute with New West directly instead of pursuing a dispute resolution process.

  "If the substance of any dispute between the SBE and New West is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the New West charter in accordance with *EC* Section 47607, the matter will be addressed accordingly by the SBE."

Further, language on page 83 that requires binding arbitration and the equal sharing of arbitration costs should be eliminated. The SBE does not have the ability to pay for such arbitration.

XVI. Public School Employer Declarations

This section states that New West is the exclusive employer for purposes of EERA.

XVII. Closure Procedures

This section contains a description of the procedures to be followed in the event the New West closes for any reason.

- The procedures described in the charter on pages 84 and 85 will need to be revised in accordance with the new regulations on closure procedures. More specific guidance for closure procedures will be included in the oversight MOU between the CDE and New West.

XVIII. Provisions Related to Funding, Legal Issues, and Business Affairs and Provisions Related to Changing the Charter

- There are numerous provisions on pages 85-92 that reflect LAUSD as the authorizer and reflect requirements that are applicable if the district was the authorizer. Changes will need to be made to these pages to reflect the SBE as the authorizer and to delete requirements that don't apply with the SBE as the authorizer.

Additional Considerations

Changes to Reflect the SBE as the Authorizer

The charter contains numerous references to LAUSD as the authorizer throughout the entire document. These references will need to be replaced and modified to reflect the SBE as the authorizer.

Petition for

Charter Renewal

for

New West Charter School

Charter Number 431

July 1, 2007 - June 30, 2012

submitted to the

Board of Education of the City of Los Angeles

and

Los Angeles Unified School District

under the

Charter Schools Act

California Education Code 47600 et seq.

by the

Board of Directors
New West Charter School

on

January 12, 2007

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Charter for New West Charter School

July 1, 2007 - June 30, 2012

Mission Statement

New West Charter School provides an academically rigorous, highly individualized education for middle school students in grades 6-8. New West produces competent, independent, self-reliant students through a learning environment that promotes academic excellence and strong character development. New West students learn to think with curiosity and agility to ensure their success in college preparatory high school programs. The cornerstones of New West are:

- A rigorous core curriculum that provides a strong foundation in reading and language arts, mathematics, science, and history and social science, supplemented with enrichment in world languages, visual and performing arts, physical education and health, and information technology;
- A robust program of community service and extracurricular activities designed to have maximum synergy with the academic program;
- Performance standards that are clearly defined and closely monitored for individual students, the school's faculty, and the school as a whole;
- Shared responsibility among parents and educators for the school's policies for governance, operation, and curriculum — a collaborative educational community serving the best interests of students;
- A small student body (not to exceed 600) taught in classes as small as resources permit (25 students or less per class); and
- A personalized learning program that both encourages and challenges each student according to his or her ability through differentiated instruction in an integrated curriculum.

New West serves students of diverse cultural, ethnic, and socioeconomic backgrounds from the Westside communities of the greater Los Angeles area. New West families and educators share the common goal of fostering high academic achievement through high expectations, genuine accountability, and individualized attention. This home/school collaboration of involvement and commitment enables students to become competent, creative, self-motivated, lifelong learners who have a clear sense of their individual worth and their responsibilities to society.

Endorsements of the Charter Renewal Petition

The Board of Directors of New West Charter School (New West) submits this petition for renewal of its Charter (the Charter) to the Board of Education of the City of Los Angeles through the Los Angeles Unified School District (the LAUSD or the District) under the Charter Schools Act of 1992 [EC 47600 et seq.][1]. New West's Board presents this petition on behalf of the full-time

[1]. References to the California Education Code are given in brackets.

credentialed teachers currently employed by New West. These teachers, by their signatures, have indicated that they are familiar with the school's operation and educational plan, and they are meaningfully interested in teaching at New West. This number of signatures exceeds the legal requirement that the charter petition must be signed by a number of teachers equivalent to at least one-half of the teachers that will be employed at the school during the first year of the charter renewal (2007-08 school year) [EC 47605(a)(1)(B)].

The board members, educators, staff, and parents of New West request that the LAUSD Board of Education grant New West continued status as a charter school for the years 2007 to 2012 pursuant to the Charter Schools Act. The Board of Directors and teacher signatories have authorized Dr. Sharon Weir to negotiate any amendments to the Charter necessary to secure approval by the LAUSD.

Affirmations

New West provides the following affirmations regarding the operation of the school and its educational programs [EC 47605(b)(4)]:

- New West is not a conversion of a private school to a public school, nor does it receive any public funds if a student also attends a private school that charges the student's family tuition [EC 47602(b)].
- New West is nonsectarian in its programs, admission policies, employment practices, and all other operations [EC 47605 (d)(1)].
- New West does not discriminate against any person on the basis of ethnicity, national origin, gender, disability, or place of residence within California [EC 47605 (d)(1)].
- New West admits all students who wish to attend New West, unless the number of applicants exceeds the school's capacity, in which admission is determined by a public random drawing according to the preferences specified in *Required Elements of the Charter. VIII. Element H: Admission Requirements. C. Admission and Enrollment Preferences*.
- New West is proactive in recruitment efforts and outreach programs to achieve a racial and ethnic balance among its students that is reflective of the general population residing within the district's territorial jurisdiction [EC 47605(b)(5)(a)(ii)(G)].
- New West agrees that the District cannot require any of its employees to be employed by the school [EC 47605(e)], nor can the District require any student to attend the school [EC 47605(f)].
- New West does not enroll students over 19 years of age unless they are continuously enrolled in public school and making satisfactory progress towards the award of a high school diploma [EC 47612(b)].
- New West elects to function as a public school within the District and its Special Education Local Plan Area (SELPA) for all special education purposes including, but not limited to, funding, policies, programs, and compliance [EC 47641(b)].
- New West complies with the terms of this Charter as a performance-based contract with the District (see *General Provisions of the Charter. III. Role of the Charter*).
- New West complies with the District's policies for charter schools provided these policies do not restrict the school's right to fulfill the intent of the Legislature in enacting and revising the Charter Schools Act of 1992 including but not limited to the school's right to be "exempt from the laws governing school districts" [EC 47610].

- New West complies with all local, state, and federal laws and judicial mandates applicable to charter schools, charter schools as public agencies, and charter schools operated by a California Nonprofit Public Benefit Corporation.[2]

Impact Statement

New West's operation as a middle school serving the Westside of Los Angeles has minimal direct impact on the district's campuses, services, and educational programs. The following information summarizes the proposed operation and potential effects of the school [EC 47605(g)]:

- **Facilities**. New West's campus is located at 11625 Pico Boulevard, Los Angeles, CA 90064 in a building occupied on a long-term lease from a private party. New West, therefore, has no affect on District facilities unless, at some future time, the school seeks school facilities through the District as provided by EC 47614.
- **Students**. New West's current enrollment is about 300 students, most of who live in Los Angeles and would otherwise attend middle schools administered by LAUSD Local District 3 (primarily Emerson, Mark Twain, Palms, Paul Revere, and Webster Middle Schools). New West marginally reduces the overcrowding on those large campuses and provides an alternative for students better served educationally in a small school environment.
- **Administrative Services**. New West employs staff or contracts with outside parties to provide its own administrative services. New West does not make use of any District administrative services beyond the district's legally mandated oversight responsibilities.
- **Civil Liability**. New West operates as a California Nonprofit Public Benefit Corporation. The District, therefore, is not liable for the school's debts, obligations, acts, errors, or omissions provided the District fulfills its oversight responsibilities required by law. Furthermore, New West indemnifies, defends, and holds the District harmless for the school's acts or omissions. New West, which is not covered by the district's self-insured and commercial policies, carries at its expense the full range of insurance coverage required by the District.

Academic Criteria for Charter Renewal

A charter school that has been open for four years or more must meet academic performance standards and criteria prior to receiving renewal of its charter [EC 47607(b)]. New West is not legally subject to this academic performance review because it opened in September 2003 and has completed only three years of operation when its Charter is considered for renewal during the 2006-07 school year (i.e., 2003-04, 2004-05, 2005-06). Nevertheless, New West is a high-performing school whose students are achieving at a level that far surpasses all academic criteria for charter renewal [EC 47607(b)(1)-(4)].

New West's API has improved in its first three years of operation from 752 in 2004 to 783 in 2005 to 809 in 2006[3]. New West's 2004 API was 752, which ranked in the 7th decile statewide and 9th decile among similar schools. The school's 2005 API improved 31

[2]. These laws and mandates include but are not limited to the Charter Schools Act of 1992, AB 602 (special education funding), the Americans With Disabilities Act (ADA), the Individuals with Disabilities Education Act (IDEA), the Rehabilitation Act of 1973 ("Section 504"), the Family Educational Rights and Privacy Act (FERPA), the No Child Left Behind Act of 2001, and the LAUSD's Modified Consent Decree.

[3]. Date from California Department of Education webpages for API reports (http://ayp.cde.ca.gov
).

points to 783. and met all federal Adequate Yearly Progress goals (only 13 of LAUSD's 89 middle schools had larger gains). The 783 API for 2005 is significantly greater than the average API's for schools in the District (649), across Los Angeles County (676)[4], and throughout California (709). The 809 API for 2006 is significantly greater than the average API's for schools in the District (703), across Los Angeles County (658)[5], and throughout California (720). If New West had been a District school, it would have ranked 4th out of 82 middle schools (API's of LAUSD middle schools range from 530 to 839). New West's academic performance is substantially higher to marginally lower than the 2006 API's of the District's nearby middle schools: Webster (609), Emerson (672), Palms (780), and Paul Revere (810). The achievement gap between white and African American and between white and socioeconomically disadvantaged students is substantially less at New West compared to those five District middle schools[6].

Description of the School

I. History

New West originated as a parent-led, grass roots effort to start a small, high quality, public middle school on the Westside of Los Angeles. Planning began in 1999 by an ad hoc group of parents who had learned about the benefits of charter schools through their experiences at the five neighborhood elementary schools of what was then known as the Palisades Charter Complex (a group of District schools, including a middle and a high school, first chartered in 1995). New West was incorporated as a public nonprofit educational benefit corporation in 2000. An Organizing Committee with an Executive Board guided the efforts to establish the new school. This Committee oversaw a variety of subcommittees staffed by numerous parent volunteers who comprised New West's Development Group. Volunteers who contributed at least 100 hours of service to opening of the school were recognized as Founders of New West (see *General Provisions of the Charter. IX. School Founders*). A $35,000 Charter School Planning Grant from the California Department of Education (March 2000) and a $10,000 Walton Family Foundation Charter School Planning Grant (July 2000) were instrumental in supporting the initial costs of school development.

The LAUSD denied the initial petition in August 2000 to establish New West as a charter middle school. The Los Angeles County Board of Education subsequently denied a revised petition in January 2001. New West then submitted its charter petition to the California State Board of Education (SBE) through the California Department of Education (CDE) pursuant to Education Code Section 47605(j)(1). In December 2001, the SBE unanimously approved the New West charter petition and assigned the school charter number 431, with the final state-approved Charter dated January 15, 2002.

Due to difficulties in securing an appropriate site for its campus as well as extended SELPA negotiations, New West moved its initial opening date from fall 2002 to fall 2003. In May 2003, with approval from the CDE, New West signed a long-term lease on its present school site on Pico Boulevard in West Los Angeles. Architect Jennifer Wen donated pro bono architectural services and her husband Jeff Guh donated structural engineering services. Jennifer Wen and the board chairman volunteered their time and effort as project managers during an expedited construction schedule that completely renovated the building over the summer of 2003. Much of the funding for

[4]. Based on 2004 API data since county results are not yet available for the 2005 tests.
[5]. Based on 2004 API data since county results are not yet available for the 2005 tests.
[6]. Based on 2004 API data since subgroup results are not yet available for the 2005 tests.

construction and opening of the school came from a $400,000 Implementation Grant, a $250,000 loan from the Charter School Revolving Loan Fund, and about $300,000 of personal loans from David and Nancy Eagle and his parents. As construction proceeded, Dr. Donald Gill, New West's Founding Director/Principal worked with founding parents to hire teachers and staff and make other arrangements for opening the school. The New West campus on Pico Boulevard was dedicated on September 7, 2003, and, the next day, about 275 students in grades 6-8 attended the first day of classes in their the new school.

II. Location and Contact Information

New West's middle school campus is located at 11625 Pico Boulevard, which is centrally located on the Westside within the City of Los Angeles. The school site is in a mixed commercial area of smaller retail and service businesses that is zoned for schools. New West is easily accessible given its location on or near major thoroughfares close to the intersection of the I-10 and I-405 freeways. The campus is a few blocks south of Stoner Avenue Park, which is currently used for the school's PE program, and a mile north of Mar Vista Park, which the school may use for athletic activities in the future. New West is located in Board of Education District 4 and Local District 3 of the LAUSD within the attendance area of Richland Elementary School, Webster Middle School, and University High School. New West can be contact by:

- Mail — New West Charter School, 11625 Pico Boulevard, Los Angeles, CA 90064.
- Telephone — 310-943-5444.
- Fax — 310-231-3399.
- Website — www.newwestcharter.org.
- E-mail — see website for a listing of e-mail addresses of the school's staff.

If New West moves to another location for any reason, that school site must be located within the district's geographic boundaries unless a suitable site is unavailable or the site is occupied on a temporary basis during a construction or expansion project [EC 47605.1(d)]. If New West proposes to open one or more additional sites for educational operations, then the school must petition the District for a material revision to its Charter regarding those additional locations [EC 47605(a)(4)].

Since New West occupies its current site under a long-term lease, there is no immediate need for the District to make available facilities sufficient to accommodate the school's in-district students [EC 47614(b)]. New West, however, reserves its right as a charter school to request, as allowed by charter school law, that the District provide a furnished and equipped facility near its present location. This facility must be comparable to the District schools that New West's in-district students would otherwise attend. Both the District and New West are bound by state regulations regarding the request for, reimbursement for, and provision of facilities as specified in EC 47614.

III. Student Body

New West's current school site can handle a maximum of about 300 students in its present configuration. For 2006-07, the school enrolled 303 students (107 6th graders, 103 7th graders, and 93 8th graders). About 51% of the students are male and 49% female. New West's student body is racially diverse with approximately 25% African-American, 37% White, 19% Latino, 7% Asian, and 12% other ethnicities, reflecting the diversity of the Los Angeles area in general.

IV. School Facilities

New West's school site is a commercial, two story building constructed in 1947. The property is occupied under a long-term lease with right for renewal (2003-2013). The building has about 10,000 square feet on the first floor and about 5,000 square feet on the second floor. In the

summer of 2003, the building's interior was completely redesigned and renovated to serve as a school. The building was inspected by certified structural engineer and declared safe in 2003. All renovations were completed in compliance with Los Angeles building code standards and regulations. The school site was inspected and cleared by the City Fire Marshall. The City of Los Angeles issued a Certificate of Occupancy before the school opened in September 2003.

The building and grounds are configured for optimal, efficient use as a school in a relatively small space. The campus includes:

- Twelve classrooms capable of holding 25 or more students each for a maximum school size of about 300 students (one is a resource classroom for special education purposes).
- One smaller classroom used by the resource teachers for special education purposes.
- Library (constructed during summer of 2005 funded by a grant from the S. Mark Taper Foundation).
- Media (computer) center (constructed during summer of 2005 funded by a grant from the S. Mark Taper Foundation).
- A central administrative and reception area at the school's entrance.
- Separate private offices for the Director/Principal and Assistant Principal.
- Teacher's lounge.
- Parent volunteer work area.
- Separate adult bathrooms for men and women.
- Separate student bathrooms for boys and girls.
- Ramps, elevator, and other required modifications to achieve full ADA handicapped access.
- A larger paved area on the side adjacent to the school's entrance that is used for drop-off in the morning, pick-up in the afternoon, physical education and recess during the school day, after school activities, and parking when students are not present.
- A smaller paved area at the other end of the school that has shaded picnic tables used for recesses, lunch, and various student activities during and after school.
- Metered and non-metered parking for employees, parents, and visitors is readily available on the streets surrounding the school.
- Large, outside wall mural, opposite the school's main entrance, painted by Latino artist Rafeal Escamilla to express the spectrum of diversity in Los Angeles, including historical and contemporary architectural landmarks as well as landscapes to educate students about culture and community in Los Angeles.
- Fencing and gates that provide security and restrict students from leaving or outsiders from entering the campus.
- Video security system to monitor campus gates and open areas inside and outside the school building.
- Wireless, broadband internet access throughout the building.
- New energy saving lighting.
- New, efficient HVAC equipment (summer 2003).
- New roof (summer of 2004).
- New student desks, chairs, and lockers.
- Teacher's desks, file cabinets, bookcases, tables, chairs, and most other interior furnishings donated by local businesses and law firms from their excess inventory.

Cleaning of the building and grounds, as well as minor maintenance, is handled by New West's janitors supplemented by other school staff and parent volunteers. The same people handle the small amount of gardening and landscaping at the school site. Pest management is handled by professionals paid by the school when needed. Maintenance and repair of the school's physical systems are handled by local companies paid by the school when needed unless a qualified parent volunteers to do the work (e.g., computers, plumbing, electrical, heating, and air-conditioning). Major repairs are the responsibility of the building's owner as specified in the lease agreement. Any repairs, remodeling, or additions at the school site are done in compliance with all applicable local building, safety, and fire regulations. The Director/Principal is responsible for inspecting the school's building and grounds to identify and correct safety and health hazards.

V. School Employees

The numbers and types of staff employed at New West vary depending on the level of funding received by the school from different sources and the programs such funding can support. For the 2005-06 school year, New West's employees include (full-time unless noted):

- Director/Principal.
- Assistant Principal
- Office and Systems administrator
- One full time office assistant
- One part-time office assistant.
- Twelve credentialed classroom teachers to provide instruction in the four core subjects (Reading and Language Arts, Mathematics, Science, and History and Social Studies) and various electives.
- Two credentialed special education resource teacher and one special education assistant.
- Librarian (part-time volunteer).
- Several non-credentialed elective teachers depending on need, availability, and budget (part-time or volunteer: e.g., Spanish, French, chess).
- Three non-credentialed physical education teachers (part-time).
- One instructional aide.
- Two janitors (part-time).

New West contracts with outside individuals and companies for the following services:

- Music program (beginning and intermediate orchestra offered as electives; jazz band offered as after-school extracurricular class).
- Business and administrative affairs (accounting, payroll, budgeting, and other financial and back-office services).
- Maintenance and repair services on as-needed basis (major repairs to the building are covered under the lease agreement).
- After school program.
- Special education services outside the expertise of the school's resource teachers.
- Legal affairs.

The number and types of employees in future years depends on the availability of funds, numbers of students, and programmatic needs. Parents and community volunteers provide enrichment programs, extracurricular activities, and adult volunteers in the classrooms as appropriate and needed. Parents contribute substantial time and expertise to assist in other aspects of the school's

day-to-day and long-term operation (e.g., room parents, traffic control, lunch monitors, clerical help, newsletter, grant writing, admissions, and governing board).

VI. Grants

New West competes successfully for grants and other funding that supplement the school's state-derived revenues. New West has received the following grants and loans:

- Planning Phase Charter School Start-Up Grant, California Department of Education: $35,000, awarded in March 2000.
- Charter School Planning Grant, Walton Family Foundation, Inc.: $10,000, awarded in July 2000.
- Implementation Grant, California Department of Education: $400,000, awarded in June 2003.
- Charter School Revolving Loan Fund, California Department of Education: $250,000, awarded in June 2003.
- Outside Wall Mural by Latino artist Rafael Escamilla, The Pico Beautification Organization working with New West and its students as a Community Partner, funded by Operation Clean Sweep, Neighborhood Matching Funds, City of Los Angeles Department of Public Works: $10,000, awarded in October 2003.
- Friends of New West Charter School Greening and Beautification Project, Neighborhood Matching Fund, City of Los Angeles: $10,000, awarded in May 2004.
- Library and Media Center, S. Mark Taper Foundation, Los Angeles: $175,000, awarded in July 2004 (construction completed summer 2005).

General Provisions of the Charter

New West operates as a charter school to fulfill the intent of the California Legislature in establishing the Charter Schools Act [EC 47601]. Charter schools are meant by law to provide opportunities for teachers, parents, students, and community members to maintain a school that operates independently from the existing school district structure. This independence allows New West to accomplish the following as a charter school [EC 47601(a)-(g)]:

- Improve student learning.
- Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as academically low achieving.
- Encourage the use of different, innovative, and enhanced teaching methods.
- Create new professional opportunities for teachers, including the opportunity to be responsible for the school's learning program.
- Provide parents and students with expanded choices in the types of public educational opportunities available to them, and the opportunity to be involved in their children's education.
- Be accountable for meeting measurable student outcomes and using performance-based accountability systems to measure student and school success.
- Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

If the Board of Education approves a revised or renewed Charter, then New West provides written notice, including a copy of the approved Charter, to the Los Angeles County Superintendent of Schools, the State Superintendent of Public Instruction, and the California Department of Education.

I. Name of the School

The school's official name is New West Charter School. New West's Board of Directors retains the right to change the school's name at any time for any reason. New West will immediately inform the District when, and if, the school changes its name.

II. Chartering Authority and Supervisory Oversight

The Board of Education of the City of Los Angeles, working through the District, is New West's chartering authority for the five year term of the charter renewal from July 1, 2007, to June 30, 2012. The District is the supervisory agent that oversees New West. New West works collegially and collaboratively to meet the district's supervisory responsibility to [EC 47604.32]:

- Assign at least one District staff member to be the contact person for New West.
- Visit New West at least annually.
- Ensure that New West complies with all reports required of charter schools by law.
- Monitor New West's fiscal condition using the financial information it obtains from the school's annual reports listed in *Provisions Related to Funding, Legal Issues, and Business Affairs. V. Financial Reporting.*
- Provide timely notification to the California Department of Education if the school's petition for charter renewal is granted or denied, the school's charter is revoked, or the school ceases operation for any reason.

The district's cost of performing these duties and other supervisory functions is funded by the supervisory oversight fees that New West pays annually to the District (*see Provisions Related to Funding, Legal Issues, and Business Affairs. VI. Oversight Costs by Chartering Authority*).

The Los Angeles County Superintendent of Schools may, based on written complaints by parents or other information that justifies an investigation, monitor the operations of New West and conduct an investigation into the operations of the school [EC 47604.4].

III. Role of the Charter

The Charter constitutes a binding contract between New West and the District. The Charter is a performance-based agreement covering those terms and conditions required by law as well as those aspects of the relationship between New West and the District that need clarification. New West consults with the District about matters that arise not covered by the Charter. Disputes between New West and the District about the terms and conditions of the Charter, the meaning of the Charter Schools Act, or the applicability of local, state, and federal laws to charter schools are settled according to the dispute resolution process described under *General Provisions of the Charter: Section XIII.N.2. Disputes between the School and the Chartering Authority*.

IV. Limits on the Charter

New West cannot operate an adult school, children's center, or independent study programs except, in the latter case, as may be required for the occasional student who may be absent from the school for personal or health reasons. New West operates at a single site within the district's jurisdictional boundaries [EC 47605(a)(1) & (4)]. New West must submit and the District approve an amended charter petition prior to implementation if the school decides to expand its educational program to include other grade levels, to change its location, or to open additional school sites for conducting its educational operations.

V. Term of the Charter

The term of the Charter begins July 1, 2007, and ends June 30, 2012.

VI. Legal Status of the School

The school is operated by New West Charter School, a California Nonprofit Public Benefit Corporation formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 commencing with Section 5110 of Division 2 of Title 1 of the Corporations Code), as allowed by the Charter Schools Act [EC 47604(a)]. The District is not liable for the debts or obligations of New West, or for claims arising from the performance of acts, errors, or omissions by New West, if the District has complied with all oversight responsibilities required by law [EC 47604(c)].

The school operates according to New West's Corporate Bylaws, which are consistent with the terms of the Charter, the Charter Schools Act, and all other applicable laws. If the provisions of the Corporate Bylaws are in conflict with provisions of the Charter, then the provisions of the Charter shall control. New West provides the District with its corporate bylaws and informs the District when any changes to the bylaws are made.

New West, as a charter school, is part of the Public School System, as defined in Article IX of the California Constitution [EC 47615(a)(1)]. New West, as a charter school, is under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools, as provided in the Charter Schools Act [EC 47615(a)(2)]. New West is a "school district" for purposes of [EC 47612(c)]:

- Education Code — Part 9: Finance. Chapter 1: State School Funding. Article 1: Sources, Conditions of Apportionments, Amounts (commencing with EC 14000).
- Education Code — Part 24: School Finance. Chapter 3: State School Fund. Article 1: Appropriations, Sources, Conditions, Amounts of Support per Average Daily Attendance (EC 41301 & 41302.5).
- Education Code — Part 26.8: Charter Schools. Chapter 6: Funding. Article 10. Other Operational Funding Available to Charter (EC 47638).
- California Constitution — Article XVI. Public Finance (Sections 8 and 8.5).

New West operates under the supervision of the District as a direct-funded "independent" charter school. This means New West is autonomous from the District in most of its operations and receives its public funding directly under the Block Grant Funding Model.

VII. Size of the School

The Board of Directors has the authority, consistent with its Charter, to determine the size and grade-level breakdown of the student body at New West. The determination of school capacity is based on the school's academic program, the school's fiscal viability, the educational needs of currently enrolled students, the capacity of the school site, and the level of interest shown by students who want to attend the school. Determinations of class size and student:teacher ratios are based on credentialed teachers only.

New West's enrollment is limited to about 300 students at its Pico Boulevard school site. However, New West reserves the right to enlarge its school site, add additional sites, or move to a larger site so that the school can expand to a maximum enrollment of about 600 students in grades 6-8 (about 200 students per grade level). New West understands that moving to a new school site and/or adding grade levels represent material changes to the Charter that require consultation and approval by the District [EC 47605(a)(4)].

VIII. Facilities

New West works collaboratively with the District in exercising its right as a charter school to rent, lease, or purchase a school site of its choosing for conducting its educational operations. New West may construct, reconstruct, demolish, remodel, alter, or add to buildings or other

facilities at its school site provided that the school conforms to all city, county, and state building codes, health laws, safety regulations, and educational standards applicable to charter school facilities. New West has a Certificate of Occupancy that its school site is fully usable without conditions in order to conduct its educational operations. New West allows the District to inspect its campus and any of its school buildings or other facilities at any time.

New West keeps the District informed, on a timely basis, with regard to any planned change in the location of the school's campus or any new construction or remodeling of the school's existing facilities. New West agrees to the following steps to satisfy the District that its school site is financially feasible, educationally appropriate, and safe for occupancy and continued operation of the school:

- Provide copies of all relevant documents that specify the terms and conditions of rental, lease, or purchase agreements.
- Provide information about the site, including but not limited to the age and history of buildings, tenants of the site if shared with others, planned use of the space for educational purposes, emergency routes, traffic flow, parking, student drop-off zones, campus security, and separation of students from other tenants or neighboring properties.
- Provide structural plans and architectural drawings of the site, including planned alterations or new construction, for inspection and comment by the District with regard to size and arrangement of rooms, number and placement of bathrooms, ADA accessibility, entrances and exits, width of hallways, lighting, signs, safety, and security.
- Provide the report of a licensed structural engineer certifying that the facility is constructed to local building code standards and that the building is sufficiently structurally sound to be used by a county superintendent of schools for the operation of a community school.
- Conduct a parking and traffic safety study whose purpose is to address the adequacy of the school's drop-off and pick-up areas and procedures including the potential need for adult monitors to manage the safety of students entering and leaving the school grounds.
- Create a school security plan including containment of students, access to the school site, separation from other tenants of the site and neighboring properties, emergency plans and exit routes, and signage.
- Consider any site review recommendations made by the District regarding the school site and school facilities, but New West is not bound by such recommendations except as required by applicable building, health, safety, or educational laws related to charter school facilities.
- Provide a Certificate of Occupancy at least 45 days before commencing educational operations.
- Notify the District immediately if the school is cited at any time by any government agency (e.g., Cal OSHA or the Fire Marshall) for noncompliance with building, health, or safety regulations.
- Demonstrate that the costs of the school's facility, including alterations or new construction, can be accommodated within the school's budget.
- Instruct the owners of leased or rented property to notify the District if rental or lease agreements are terminated.

If New West moves or expands to another facility during the term of this charter, then New West must provide a Certificate of Occupancy to the District for that facility at least 45 days before educational activities at that facility begins. New West cannot use any location for which it has failed to provide a timely certificate of occupancy to the District, unless an exception is made by the District's Charter Schools Division. Notwithstanding any language to the contrary in this charter,

the interpretation, application, and enforcement of this provision are not subject to the dispute resolution process specified in *Required Elements of the Charter. XIV. Element N: Dispute Resolution Processes. B. Disputes between the School and the District*).

IX. Educational Rights and Responsibilities

New West believes that a strong, collaborative partnership among students, teachers, and parents provides the foundation for an educational culture that enhances the learning experience of all students. Inherent in this educational partnership are both rights and responsibilities.

A. Rights and Responsibilities of Students

(5) Access to a free, nonsectarian public education without regard to race, sex, color, ethnicity, national origin, or disability.

(6) Learn in a safe, clean, orderly, nurturing educational environment that encourages and challenges students to reach their maximum potential as "educated persons" in the 21st Century.

(7) Develop skills and abilities in reading and language arts, mathematics, science, and history and social science that provide a strong foundation to become self-motivated, competent, life-long learners.

(8) Participate fully in the core academic curriculum as well as differentiated instruction, homework assignments, community service projects, enrichment and extracurricular activities, special education, and remedial learning opportunities as may be appropriate for their individualized study plans.

(9) Behave appropriately and maintain high ethical and moral standards, including honesty, respect, courtesy, and kindness in all their interactions with parents, teachers, administrators, staff, community members, and other students.

(10) Participate in the governance (e.g., student council) and operation (e.g., school work days or fund-raising activities) of the school as appropriate for middle school students.

(11) Understand and follow the student code of conduct.

(12) Support the educational philosophy, ideals, principles, and practices of the school as set forth in the school's Charter.

(13) Display a sense of pride and ownership in the success of the school.

B. Rights and Responsibilities of Parents

(14) Participate in their children's learning on a day-to-day basis.

(15) Promote the positive character development of their children.

(16) Ensure that their children complete homework assignments and participate in school activities.

(17) Act as their children's advocate in seeking their children's fullest educational development as individuals.

(18) Help to support and develop school activities and programs.

(19) Participate in the school's governance, its operations, and the design and implementation of its educational program.

(20) Support the educational philosophy, ideals, principles, and practices of the school as set forth in the school's Charter.

(21) Display a sense of pride and ownership in the success of the school.

C. Rights and Responsibilities of Educators

(22) Create an exciting, stimulating, and challenging learning environment for each child using a wide variety of learning experiences and teaching methods.

(23) Teach the adopted curriculum with appropriate consideration for the learning abilities and accomplishments of each student.

(24) Evaluate student success in meeting measurable student outcomes .

(25) Address the learning potentials of all students as individuals who may range in ability from those who are low achieving to those who are highly gifted.

(26) Communicate with parents about the achievements of their children as well as provide advice about how their children may become more successful.

(27) Participate in professional enrichment, training, and collaboration to improve their abilities as well as the school's capacity for providing a quality education to all students.

(28) Encourage and contribute to volunteerism by parents and community members who wish to contribute to the school.

(29) Participate in the school's governance, its operations, and the design and implementation of its educational program.

(30) Support the educational philosophy, ideals, principles, and practices of the school as set forth in the school's Charter.

(31) Display a sense of pride and ownership in the success of the school.

X. Compliance with No Child Left Behind (NCLB)

New West, as a charter school that emphasizes high academic achievement, high expectations, high accountability, high parental involvement, a highly qualified teaching staff, and reliance on proven best practices of instruction, is fully compliant with the federal No Child Left Behind Act of 2001.

- **Academic Achievement**. New West is a high-performing school that meets all of its goals with respect to Adequately Yearly Progress (AYP) based on the academic achievement of its students.
- **Highly Qualified Teachers**. New West employs credentialed teachers who have mastery of their subject area in the core curriculum of reading and language arts, mathematics, science, and history and social science.
- **Paraprofessionals**. New West employs highly qualified, non-credential paraprofessionals, who have completed at least two years of higher education, to provide instructional support to the school's teachers.
- **Parental Involvement**. New West was founded by parents on the premise that parental involvement is a key element for success in a child's education. New West involves parents in all aspects of the school's operation and educational program.
- **Professional Development**. New West emphasizes professional development of its educators as a cornerstone for developing and maintaining a strong educational program that fosters academic achievement.
- **Educational Practices**. New West is a best-practices school whose educational policies, programs, and practices are based on the integration of professional wisdom with the best available empirical evidence about how to deliver instruction.
- **Public School Choice**. New West is a high-performing charter school that provides an alternative for some students who would otherwise attend a low performing school in need of improvement.

XI. School Founders

The Founders of New West are parents who volunteered substantive time, effort, and expertise during the planning and implementation stages leading to the opening of New West. Founders were required to contribute 100 hours of documented volunteer service and a continuum of service on one or more committees of the New West Development Group before the school completed its first year of operation. Monetary pledges or contributions of material goods were immaterial for determining founder status. Besides the inherent satisfaction of volunteerism that benefits children and the community, the primary reward for Founders is admission preference to New West for their children (not to exceed 10% of enrollment) (see *General Provisions of the Charter: Section XIII.H.3. Admission and Enrollment Preferences*). The following general policies and practices govern Founder status at New West:

- Founders are parents meaningfully interested at some time in having their children attend New West, whether or not their children actually enroll in the school when eligible.
- The children of Founders receive admission preference to the school[7]. The number of Founders' children cannot exceed 10% of the total number of children enrolled in the school at any one time during the schools first four years of operation (i.e., for the 2003-04 through 2006-07 school years). For 2007-2012, the percentage of Founders decreases by 1% per year (i.e., 9% for 2007-08, 8% for 2008-09, 7% for 2009-2010, 6% for 20010-11, and 5% for 2011-12). Thereafter, beginning in 2012-13, the children of Founders receive no admission preference.
- Status as a Founder is limited to those persons who completed requirements for Founder status before the end of New West's first year of educational operations in June 2004.
- Founders' children must comply with the same admission criteria, application deadlines, and conditions of enrollment as other students wishing to attend New West.
- New West's Board of Directors is solely responsible for resolving disputes about interpreting or applying these policies or any other aspect of Founder status.
- Founders elect three representatives and two alternates to the Board. Their role is to preserve the philosophy, the mission, and the dream of New West in terms of the ideals and principles given in the Charter.
- The awarding of founder status to New West volunteers ended in June 2004 and cannot be reopened during the term of this Charter (unless the school applies for and receives written approval from the District.)

XII. Charter School Organizations

New West maintains memberships in the California Charter Schools Association (CCSA) and the Charter School Development Center (CSDC) for the purpose of both promoting the charter model of school reform generally and enhancing New West's effectiveness as a charter school specifically. New West sends at least one teacher, administrator, and/or board member to at least one annual meeting of a state or local charter school organization. The school's teachers, administrators, and board members are encouraged to attend workshops held by CCSA, CSDC, or other similar organizations. New West plans on-campus seminars to keep its community of parents and educators informed about the evolving principles and practices of charter schools.

[7]. The number of founders' children taking advantage of this admission preference is a much smaller percentage of overall enrollment than allowed. Founders' children comprise less than 5% of New West's 2005-06 enrollment. Many Founders did not enroll their children of middle school age because of the delay in opening New West as well as the change in the school's location out of the Brentwood-Pacific Palisades area in which most Founder's reside.

New West's educators and/or board members are encouraged to attend the district's yearly Charter School Conference. They are also encouraged to participate in the district's Community of Practice Network to foster collegial, collaborative relationships with charter school operators and developers throughout the Los Angeles area.

XIII. Transportation

New West is not responsible for providing transportation between students' homes and the school's campus. Transportation for New West students with disabilities may be provided as required under applicable law pertaining to special education students (see Table 2 under *General Provisions of the Charter: Section XV.B. Special Education Policies, Procedures, and Practices*).

New West requests that parents participate in the school's car-pooling program to alleviate traffic conditions around the school, although such participation is not mandatory. A few students living near the school either walk or bicycle to school. Some students use public transportation that stops near the school. The school organizes traffic safety volunteers to manage the morning drop-off and afternoon pick-up of students in the parking lot adjacent to the school's entrance.

XIV. School Inquiries and Inspection

New West accommodates reasonable requests from the public for information about its operation with the understanding that the school abides by all applicable laws regarding the confidentiality of the records of individual students, parents, and employees. Visits to the school site by members of the public require prior approval by the Director/Principal of New West, who considers the health and safety of students and employees as well as disruption to the school's educational program before granting access.

New West promptly responds to and consults with the District, the Los Angeles County Superintendent of Schools, or from the State Superintendent of Public Instruction regarding all reasonable inquiries from these agencies, including, but not limited to, inquiries regarding its financial records [EC 47604.3]. The District may inspect or observe at any time any part of the school including its facilities, records, teaching programs, extracurricular activities, or any other part of its operation [EC 47607(a)].

XV. Confidentiality of Records

New West follows all applicable state and federal laws regarding the confidentiality of private information and records of students, parents, employees, and the school itself (e.g., Family Educational Records and Privacy Act). Specifically, the Director/Principal is responsible for a records management policy that covers the creation, maintenance, and destruction of student and employee records as required by law. Access to and disclosure of private information is limited to those persons who have a legal right to inspect and review documents (e.g., parents may inspect their own children's school files, or employees may inspect their own personnel files) or to those who need access to documents in the course of the school's normal operation (e.g., Director/Principal, teachers, and special education personnel). Basic information about students that usually appears in class rosters (e.g., names, ages, grade levels, addresses, and phone numbers) is shared within the school's community of employees, parents, and students for internal school purposes but cannot be distributed to any outside person or organization. Complaints about the contents of student or employee records, the accuracy of information, or violations of privacy are referred to the school's internal dispute resolution process.

XVI. Conflict of Interest Policy

New West's policy limits actual or potential conflicts of interest that may arise when the personal or professional interests of a stakeholder affect her/his ability to put the interests of the school before personal benefit. The conflict of interest policy applies to the board members,

administrators, teachers, staff, parents, community members, committee chairs and members, volunteers, and any other person or party who participates in the school's operation and educational program, all of whom are asked to agree in writing to uphold the policy. New West's policy has four essential elements[8]:

- **Full Disclosure.** Stakeholders are required to disclose any potential or actual conflict of interest.
- **Abstention from Discussion and Decision Making.** Stakeholders who have an actual or potential conflict of interest cannot participate in discussions or votes on matters related in any way to the area of conflict.
- **Abstention from Decision-Making.** Stakeholders who have an actual or potential conflict of interest cannot be substantively involved in decision-making on matters related in any way to the area of conflict.
- **Violation of Policy.** Anyone can report violations of the conflict of interest policy and have the allegations addressed through the school's dispute resolution procedures.

XVII. Exemption from Laws Governing School Districts

New West complies with the terms set forth in its Charter, with District policies applicable to charter schools, with the provisions of the Charter Schools Act, and with other laws and regulations applicable to charter schools. Otherwise, New West is exempt from laws governing school districts [EC 47610].

XVIII. Equal Rights Statement

New West, as a charter school, cannot engage in racial, sexual, or ethnic discrimination in any aspect of its operation [EC 235]. New West is nonsectarian in its programs, admission policies, employment practices, and all other operations [EC 47605(d)(1)]. New West cannot discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, national origin, or disability in any aspect of its operation, educational program, or dealings with students, parents, and employees [EC 47605(d)(1) and California Constitution, Article 1, Section 31].

XIX. Special Education

New West elects to function as a public school within the District and its Special Education Local Plan Area (SELPA) for all special education purposes including, but not limited to, funding, policies, programs, and compliance [EC 47641(b)]. The Charter Schools Act provides that [EC 47646(a)]:

- New West participates in state and local funding for special education in the same manner as any other public school in the District.
- A child with disabilities attending New West receives special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school in the District.
- The District ensures that all children with disabilities enrolled in New West receive special education and designated instruction and services in a manner that is consistent with their individualized education program (IEP) in compliance with the Individuals with Disabilities Education Act (IDEA) and implementing regulations.

[8]. See Frank Martinelli's *Creating an Effective Charter School Governing Board* (Charter Friends National Network, 2000).

A. Charter School Special Education Responsibilities

New West adheres to the provisions of the Individuals with Disabilities Education Act (IDEA) and state special education laws and regulations to assure that all its students with disabilities have a free, appropriate public education (FAPE). New West also ensures that no student otherwise eligible to enroll in their charter school is denied enrollment.

New West complies with Section 504 of the Federal Rehabilitation Act, the Americans with Disabilities Act, and all Office of Civil Rights mandates for its students.

New West adheres to all District policies and procedures regarding special education.

New West adheres to the requirements of the Chanda Smith Modified Consent Decree, including compliance with the Annual Plan, submission of documents and information, participation in reviews, and attendance at informational sessions and meetings.

New West uses District forms to develop, maintain, and review assessments and IEPs in the format required by the District and enters assessment and IEP data into the District's designated data system (Welligent) in accordance with District polices and procedures. New West maintains copies of assessments and IEP materials for district review. New West submits to the District all required reports, including but not limited to SESAC and Welligent IEPs, in a timely manner as necessary to comply with state and federal and Modified Consent Decree requirements. New West develops Individual Transition Plans to help a student with disabilities, age 14 and older, in transitioning to adult living.

New West participates in the state's quality assurance process for special education (i.e., verification reviews, coordinated compliance self-reviews, complaints monitoring, procedural safeguards, and the local plan). New West participates in internal validation review (DVR).

New West is responsible for the management of its special education budgets, personnel, programs, and services. New West ensures that its special education personnel are appropriately credentialed, licensed, or on waiver consistent with California laws and regulations.

New West implements the programs and services, including providing related services, required by a student's IEP. New West may request related services (e.g., Speech, Occupational Therapy, Adapted P.E., Nursing, and Transportation) from the District, subject to availability and on a "fee-for-service" basis, by submitting written requests to the District. New West may also provide related services by hiring credentialed or licensed providers through private agencies or independent contractors.

When a student transfers to New West from a District school or District affiliated charter school, New West provides those related services required by the student's IEP upon the student's enrollment. However, to allow for a smooth transition to New West, the District continues to fund services for thirty (30) days after enrollment for any special education student who has been receiving non-public agency (NPA) services from the District. This allows New West time to conduct an IEP team meeting and to execute contracts as necessary to facilitate the student's transition to New West. When requested by New West, a representative from the Local District Special Education Office may attend a student's first IEP meeting at New West to assist with transition issues.

When a student transfers to New West from another school district, New West provides related services required by the student's IEP upon the student's enrollment regardless of the type of service provider (school, NPA, or private). The IEP team meetings for such a

student are held within thirty (30) days of the student's enrollment in accordance with state and federal law.

The referral process includes Student Success Team meetings to review prior interventions, accommodations, and modifications, and to recommend further interventions as appropriate. New West 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.

New West is responsible for the development of assessment plans for students with suspected disabilities or, in the alternative, providing appropriate written notices to parents when denying a request for assessment. New West makes decisions regarding eligibility, goals, program, placement, and exit from special education by consensus of the student's IEP team.

If New West cannot provide an appropriate placement or services for a student with special needs, New West contacts the District to discuss placement and service alternatives. New West requests participation of a District special education representative at an IEP team meeting whenever special education programs outside of New West are anticipated, including but not limited to placement at a District school or at a non-public or private school. If an IEP team that includes New West personnel places a student in a special education program provided by another entity without District representation on the IEP team, then New West is fully responsible for the quality of the program, for any costs incurred for such a placement, and for monitoring progress towards the student's IEP goals.

New West promotes movement of students with disabilities into less restrictive environments as well as increased interactions of students with disabilities with non-disabled students. New West uses assessment and standardized testing procedures, including guidelines for modifications and adaptations, to monitor student progress.

New West provides planned staff development activities and school personnel participate in appropriate District trainings to support access by students with disabilities to the general education classroom, general education curriculum, integration of instructional strategies and curriculum adaptations to address the diverse learner, and interaction with non-disabled peers.

New West 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.

New West ensures that student discipline and procedures for suspension and expulsion of students with disabilities are in compliance with state and federal law. Discipline procedures include positive behavioral interventions. In accordance with the Modified Consent Decree, New West collects data pertaining to the number of special education students suspended or expelled.

B. Special Education Local Plan Area (SELPA)

The District is approved to operate as a single-district SELPA under the provisions of California Education Code [EC 56195.1(a)]. New West elects to function as a public school within the District and its Special Education Local Plan Area (SELPA) for purposes of special education [EC 47641(b)]. The District determines the policies and procedures necessary to ensure that the protections of special education laws and regulations are extended to New West's students in the same manner as students in all District schools.

C. District Responsibilities Regarding Special Education

The District provides New West with information regarding special education decisions, policies, and procedures to the same extent as the District provides other schools within the District. The District provides training opportunities and/or information regarding special education to New West staff to the same extent as the District provides other schools within the District.

As required by the Charter Schools Act [EC 47646(a)], the District ensures that New West participates in special education funding in the same manner as any other public school in the District. The District also ensures that students with special needs enrolled in New West receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school in the District. Furthermore, the District ensures that all New West's students with disabilities receive special education and designated instruction and services in a manner that is consistent with their individualized education program (IEP) in compliance with the Individuals with Disabilities Education Act (IDEA) and implementing regulations.

D. Funding for Special Education

Since New West is considered to be a regular school within the District for the purposes of special education, New West participates in special education funding in the same manner as any other public school in the District [EC 47646(a)]. The District ensures New West receives an equitable share of special education funding and services consisting of either, or both, of the following:

(32) State and federal funding provided to support special education instruction or designated instruction and services, or both, provided or procured by the school for its students [Education Code 47646(b)(1)].

(33) Any necessary special education services, including administrative and support services and itinerant services, that is provided by the SELPA on behalf of students with disabilities enrolled in New West [Education Code 47646(b)(2)].

New West is responsible for contributing to the District an equitable share of its charter school block grant funding to support the District's special education instruction and services, including, but not limited to, special education instruction and services for pupils with disabilities enrolled in New West [Education Code 47646(c)].

New West receives its allocated share of AB602 special education funds and is fiscally responsible for the provision of special education services and instruction to the students it serves. The allocated amount is calculated using a funding model based on student population (average daily attendance based on based on daily attendance for each student reported and certified according to District policies and procedures). New West may request specific related services from the District on a fee basis if the District has availability.

The District collects an equitable encroachment contribution from New West for district-wide costs for special education instruction and services. District-wide costs include: (1) maintaining a full continuum of program options; (2) professional development and training; 3) technical support for programs; (4) administration of due process proceedings, excluding any legal representation; (5) investigation of complaints; and (6) implementation of the Modified Consent Decree.

The annual encroachment percentage collected varies from year to year depending on the district-wide encroachment. The calculation of the encroachment contribution is based on a formula designed by the District's Budget Services Office.

E. Procedural Safeguards and Due Process Hearings

The District may invoke dispute resolution provisions set out in the Charter, initiate due process hearings, and/or utilize other procedures applicable to the New West if the District determines that such action is legally necessary to ensure compliance with federal and state special education laws and regulations or the Modified Consent Decree.

In the event that a parent or guardian of a student attending New West initiates due process proceedings, both New West and the District may be named as respondents. Whenever possible, New West and the District work together to resolve the matter at an early stage (e.g., informal settlement or mediation).

During due process proceedings and any other legal proceedings or actions involving special education, New West is responsible for its own representation. If New West retains legal representation for a due process proceeding or other legal proceeding or action, then the Charter School is responsible for the cost of such representation.

Because New West manages and is fiscally responsible for its students' special education instruction and services, New West is responsible for any prospective special education and related services, compensatory education and/or reimbursement awarded by a due process hearing officer, court, or settlement based on allegations that New West failed to fulfill its responsibilities under state and federal special education laws and regulations (e.g., identifying students with disabilities, assessing students, conducting IEP team meetings, developing appropriate IEPs, and implementing IEPs).

If the parent's attorney's fees and costs are to be paid because the parents are the prevailing party as a result of a due process hearing or settlement agreement based on New West's alleged failure to fulfill its responsibilities under state and federal special education laws and regulations, then New West is responsible for payment of those attorneys' fees and costs.

F. Complaints Regarding Special Education

The District investigates and responds to all complaints it receives pertaining to special education New West. This includes complaints filed through the District's Uniform Complaint Procedures and those initiated as Office for Civil Rights or California Department of Education Special Education Compliance Complaints. New West cooperates with the District when it investigates complaints and provides the District with any and all documentation needed to respond to the complaints. New West is solely responsible for any and all costs resulting from, arising out of, or associated with the investigation and implementation of appropriate remedies.

A. Modification to Special Education Responsibilities and Funding

The special education responsibilities of New West and the District, and the special education funding model, may be modified, supplemented, or clarified through a mutually agreed upon Memorandum of Understanding ("MOU"). If such an MOU is executed, then its provisions are incorporated by reference into this Charter and, to the extent necessary to carry out the intent of the MOU, supersede the provisions on special education responsibilities and funding set forth above.

Required Elements of the Charter

I. Element A: Description of the Educational Program

New West adopted a benchmarking approach to the development of its educational program. Specifically, New West Founders worked with educational researchers, using California Department of Education statistics, to identify the six highest performing middle schools in the state that serve similar populations of students as anticipated would enroll at New West. New West formed an Educational Study Panel[9] that visited each of these six schools and gathered detailed information about curriculum, assessments, budgetary options, school organization, and other aspects of those schools' educational programs. Additionally, the Study Panel sought the advice of educational consultants and middle school principals of high-performing schools. The information gathered by the Study Panel was used to formulate the operational details of New West's educational program. Thus, New West bases its educational program on "best practices" synthesized from the different programs, methods, and strategies of those middle schools that the Educational Study Panel found to be most successful as a model to fulfill New West's educational mission. The work of the Educational Study Panel, the schools visited, and the resultant educational program are detailed in the document "*New West Charter Middle School Educational Program*," which was approved by the California Department of Education and the California Board of Education in May 2002 as a condition for opening New West in September 2003. The revised document, which remains central to New West's educational plan, is included as an addendum to this charter renewal.

Naturally, it is to be expected, even encouraged, that New West's education program evolves over time as the school's educators determine that it would be best to add, delete, or revise various policies, procedures, or practices in the best interests of the school's students. Accordingly, the role of the Educational Study Panel is now filled by the school's Director/Principal and teaching staff as part of their regular duties and ongoing professional development activities. New West intends to continue learning from other successful schools as well as from its own experiences in order to maintain and further improve a high level of student learning.

A. Students to Be Served

New West provides for the free, nonsectarian, public education of students in grades 6-8 who desire a broad and comprehensive foundation in reading and language arts, mathematics, science, and history and social science, supplemented by a variety of enrichment programs in the visual and performing arts, world languages, health and physical education, and extracurricular and enrichment activities designed to enhance the core curriculum. New West's educational program is designed for students who want to develop the skills, knowledge, and attitudes that prepare them to be successful in college preparatory courses at the high school level, as well as in continued educational pursuits throughout their lives. The school, which is open to any student who wishes to attend, enrolls a multi-cultural, multi-ethnic, socioeconomically diverse student body without respect to race, sex, color,

[9]. The Educational Study Panel was an all-volunteer parent group composed of six working members and four educational consultants. In keeping with New West's charter school philosophy, the panel included parent volunteers and educators who represented a wide range of professional experience including a writer/producer, a research doctor, a lawyer, two teachers, and a psychologist. The educational consultants, who were chosen because of their educational experience and expertise in middle school theory, curricular design, and implementation, included: Dr. James Stigler, internationally recognized educational researcher, author of *The Teaching Gap* and *The Learning Gap*, and a founding parent at New West; Karen Cooksey, Director of Curriculum and Instruction, Santa Barbara School District; Dr. Irvin Howard, one of the authors of *Taking Center Stage* and lead consultant on the Schools-to-Watch program; and Betty Bidwell, Principal of Imperial Middle School in La Habra, California.

ethnicity, national origin, or disability. New West promotes the school's philosophy and vision by seeking to attract students and families who share the school's core beliefs about home/school/community partnership, shared local control of the school's operation and educational program, and high student achievement through high expectations and genuine accountability. For geographic reasons, most New West students come from Westside neighborhoods of Los Angeles served by the District (a small minority of students reside in Beverly Hills, Culver City, Inglewood, and Santa Monica). New West's educational program addresses students of all abilities in a manner that meets the individual needs of every student. New West has a full service special education program that provides children with special needs an appropriate education in a least restrictive environment that assures students with disabilities have full access to the school's educational program to the same extent as students without disabilities (see *Special Education*).

B. What It Means to Be an "Educated Person"

The process of education is the development of knowledge and cognitive abilities, physical and interpersonal skills, emotional and attitudinal predispositions, and character formation and work habits. New West recognizes that the domain of education is broader than formal schooling. Accordingly, New West integrates the formal schooling that takes place within its walls with a broader perspective in order to equip students to live — and continue to learn — in an increasingly complex and information-rich modern world. Thus, New West has the objective of enabling students to become self-motivated, competent, and life-long learners.

New West students work with teachers, parents, community member volunteers, and their peers to become actively involved in their own learning, both in determining the nature of their educational endeavors and in being active participants in their learning experiences. At New West, middle school students develop their abilities to think about and discuss ideas and issues critically, and to question and inquire about the world around them. They understand the rigors of mathematical proof and how to apply the scientific method of investigation. They remain intellectually flexible. They are able to analyze and understand complex systems. They learn to think holistically, abstractly, and creatively. They understand how to set and achieve goals in a variety of situations. They learn to reason critically and creatively. They communicate with clarity, focus, and understanding of the audience they are addressing. Acquiring these skills depends on the abilities of carefully selected teaching professionals who use teaching materials and methods appropriate for communicating the thought processes and philosophy to which New West subscribes.

Students at New West develop academic and social skills appropriate for an ever-changing, globally interconnected, multicultural, and multiethnic world. New West recognizes that society in the 21st Century is an informational society requiring high levels of literacy, clarity of thinking skills, and increased abilities to process information. Indeed, so much information is available and accessible in today's world that New West students learn not only to access information, but also to use, filter, and critically analyze that information. In addition, New West graduates have a concept of themselves as being part of a larger, interconnected system of life in which national and global interdependence continues to increase as technology becomes more powerful, accessible, convenient, and complex. Therefore, as part of their New West experience, students are involved in meaningful, productive, flexible, and adaptive learning, with the purpose of their education being the development of genuine learning skills. Graduates of New West know how to live and learn in this new and ever-changing world.

Students at New West learn to be proactive in their social behavior and choices. They are able to act ethically and to take responsibility for their own actions. They are able to work and live harmoniously with others in a multicultural and multiethnic world. They are able to understand and relate to the complexity of the natural environment in which they live. They are able to see the possibility of continuity within change and, with their awareness of the integrity of the system of life always lively at any level of their activity, they are able to interact with the natural and human environments in which they find themselves in ways that are flexible, purposeful, and creative.

C. How Learning Best Occurs

New West recognizes that children learn best when immersed in a culture of education that both challenges and nurtures their development as individuals. Teachers, parents, and community members must work together to create a culture unified by the high value placed on education. In the environment New West seeks to create, education is not merely a stage to be traversed on the route to adulthood, but rather a lifelong perspective that knits together the home, the school, and the community.

Thus, within the educational culture provided by teachers, parents, and community, New West believes students learn best when:

(34) They are an integral part of a strong educational value system that pervades their home, their school, and their community.

(35) They have developmentally appropriate challenges to grow both intellectually and emotionally.

(36) They have opportunities to develop multiple dimensions of intelligence and competencies.

(37) They are intrinsically motivated by the process of learning as facilitated by a constructive educational environment and flexible curriculum adaptive to the needs of individual students.

(38) They are respected for and encouraged to develop their individual learning styles.

(39) They are active participants in the educational program through hands-on lessons, an integrated curriculum, and thematic and project-based learning.

(40) They are encouraged to extend their core learning in reading and language arts, mathematics, science, and history and social science through enrichment activities in the visual and performing arts, world languages, technology, and physical education.

(41) They are engaged in collaborative and cooperative learning encounters with their peers under the guidance of knowledgeable adults.

(42) They are engaged in the mastery of facts and in the application of their accumulated factual knowledge to real life situations.

(43) They have opportunities to demonstrate personal competence and integrity as contributing members of the community.

(44) They are equipped to develop an understanding of and respect for individual and cultural differences as well as an ability to deal with those differences in a responsible and mature manner.

(45) They appreciate the interdependence among peoples, which reinforces their ability to empathize with and demonstrate compassion toward others.

(46) They accept the challenge of transitioning from one language to another, and develop strong English language skills in the most positive and timely manner possible, with the help of skilled teaching staff.

D. Educational Philosophy

New West uses a common curriculum (for each grade level/course) and a common set of assessments that are aligned with the curriculum. The curriculum is aligned with state content standards. The primary assessment tools are of three types: standardized tests, curriculum-specific tests, and ongoing performance assessments used to monitor continuously the progress of each student's learning. New West places a heavy emphasis on teacher learning (professional development) as well as student learning. Teacher learning, like that of students, primarily takes place at the school, in the context of the specific standards, curriculum, and assessments being used. The school week is organized to give teachers regular, ongoing opportunities to collaborate in the improvement of teaching and learning at the school. Recent research supports this kind of teacher learning as the most effective way to attain long-term gains in student achievement.

1. An Integrated Middle School Curriculum

A sound educational methodology begins with recognition of the limitations of past practice. Knowledge has traditionally been organized and presented to students through specialized subject areas that contain much that is known about the world and how to understand it. New West begins with the presupposition that presenting knowledge as a set of separate, discrete blocks is not an optimal method of engaging the attention or fostering the intellectual and personal development of middle school students. We believe it is essential to add another approach — "an integrated curriculum that will present knowledge as a more integrated whole in order to show how the various parts fit together."[10]

An integrated curriculum enables teachers and students at New West to concentrate intensively on the skills needed to learn as well as the content of the individual subjects. A pedagogy that features an integrated approach not only increases the students' mastery of the material, it furthers the development of their reasoning, logic, and analytic skills. A synergistic program of community service enables students to reinforce their academic achievements by putting their knowledge to practical use.

New West's middle school educational methodology addresses itself directly to the question "what does it mean to be an educated person in the 21st Century?"[11] A meaningful and qualitative educational program addresses itself to all aspects of a student's personal development. It imparts not only a set of core intellectual skills but also a sense of values including a commitment to function as a responsible member of a civic community. As educated persons of the 21st Century, graduates of New West have strong concepts of themselves as self-motivated, competent, and lifelong learners. They have academic and social skills appropriate for an increasingly technological, ever-changing, globally inter-connected, multicultural world.

The educational program at New West also addresses the development of intuitive and inter-personal skills that allow New West graduates to behave responsibly and prudently, as they become proactive in their social behavior and social choices. New West students have gone far toward the development of a normative understanding of the need to treat those they meet in life as individuals and not as members of a particular gender, ethnic, cultural or language group. Only by developing this

[10]. For an excellent statement of this research, see J. Beane, "The Middle School: The Natural Home of Integrated Curriculum" in Educational Leadership (Volume 49, Issue 2, October 1991).
[11]. We have been much influenced by the report of the Carnegie Council on Adolescent Development, Turning Points: Preparing American Youth for the 21st Century (New York: Carnegie Corporation, 1989).

understanding can they work and live harmoniously with others in a multicultural and multiethnic world.

2. Personalized Learning Environment

New West currently enrolls about 300 students (about 100 at each of the three grade levels) and limits its maximum size to about 600 students (about 200 per grade level). New West endeavors to maintain its current class size of about 25 students per teacher as funding permits. New West plans to reduce effective class size further, as funding permits, by utilizing trained teaching aides, parent volunteers, and Scholars-in-Residence working under the direction of classroom teachers, to provide help as necessary to insure the progress of each student to meet individual needs. Individual needs are also met by having students be "mobile" by moving through the school day among classrooms and sub-groups that best suit their proficiency in a particular subject, and by having students participate in intervention or accelerated programs during and after school as may be appropriate. Through these methods, New West expects to promote high academic achievement for all students to the best of their individual abilities.

3. Diversity of Learning Styles

Students are best served by classroom teaching that recognizes the many facets of learning, the variety of learning styles (e.g., oral, visual, or kinetic), and the diversity of abilities among students. Students deserve an educational curriculum and an educational methodology that enable them to master a heterogeneous subject matter in a manner that fosters a devotion to education as a lifelong process. Students further need an educational approach that assigns high priority to problem solving, critical thinking, and the development of oral, written, and artistic communication. Students need and deserve the opportunity to develop fully the skills at which they individually excel, whether they are verbal, quantitative, analytic, social, performing, or visual talents, while at the same time realizing their maximum potential in other skill areas.

4. Social Awareness

Students in the middle school years benefit greatly from the opportunity to participate in extracurricular social activities that foster the values of cooperation and of sharing responsibility. To nurture this dimension of students' development, New West provides numerous social forms of participation such as student government, clubs, athletics, orchestra, and yearbook. The local community is especially rich in parents who are involved in the arts, media, journalism, science, technology, business, medicine, and law. Involvement of these parents can make this dimension of New West's educational program especially rich.

5. Recognition for Educators

Fundamental to the New West venture are well-qualified teachers whose professional morale is buoyed by the personal esteem and appreciation of parents whose children they teach. Teachers are treated as valued professionals whose knowledge of the educational process, derived through long and ongoing training in how to accomplish the best, is the absolute prerequisite for the success of New West. Teacher morale is further reinforced by providing structured and fully regularized opportunities for teachers to make their own professional inputs into the educational curriculum and the way it is taught. Educational research has shown that the teachers whose students perform best are those who have the critically important educational opportunity of small classes. Teachers also have available the full range of modern

amenities including audio-visual services and broadband connections to internet technology. Most importantly, teachers require the supportive assistance of parent volunteers, teaching aides, and a future Scholars-in-Residence (see *Required Elements of the Charter: Section I.M. Scholars-in-Residence Program*).

6. Parental Involvement

New West believes that close, strong, on-going collaboration between parents and educators is the single most important determinant of student success. To that end, each parent of a New West student is required to commit time and effort to the school. Parents contribute their personal and professional skills on a volunteer basis to help New West achieve its educational goals. The intent is to have home, school, and community viewed as three facets of a single, seamless educational value system. To this end, New West has a Home-School contract that outlines what is expected of parents with respect to participating in their children's education (not to be confused with "home schooling"; see *Required Elements of the Charter: Section IV.E.3. Home-School Contract*).

7. Mutual Accountability

People perform best when they know most clearly what is expected of them, as well as the consequences of meeting (or failing to meet) those expectations. Everyone in the New West community has a hand in determining the school's academic and behavioral standards, and everyone joins together in monitoring individual and collective progress at the school. The feeling New West fosters is one of *ownership* — it should be second nature for every member of the school's community to think of New West as "*my* school."

8. Some Specific Program Goals

The following perspectives serve as a useful summary of the objectives that guide New West's philosophy of middle school education:

(47) New West is a "best practices" school that innovates by incorporating the most successful proven programs and practices of middle school education.

(48) New West, in striving for innovation and excellence in its core curriculum, uses the California state content standards for reading and language arts, mathematics, science, and history and social science as a "floor" or "foundation" on which to build, not a "ceiling" for which students must strive.

(49) New West provides greater learning opportunities for its students through small class size and more instructional time .

(50) New West emphasizes "individualized" learning through differentiated instruction that maximizes the exceptional abilities of each student, allowing them to excel or remediate as necessary.

(51) New West celebrates a strong partnership between students, parents, teachers, administrators, staff, and community members.

(52) New West emphasizes multi-disciplinary studies in a curriculum that takes a traditional, rigorous approach to all subjects.

(53) New West encourages students to be innovative and high achieving — i.e., the "leaders of tomorrow" — with confidence, diplomacy, and integrity.

(54) New West strives for a gender-neutral curriculum to support all students' access, real and perceived, to all aspects of school life.

(55) New West promotes a broad program of enrichment and extracurricular activities designed to complement the school's curriculum.

(56) New West emphasizes individual accountability when assessing student achievement and collective accountability when assessing the school's progress toward its educational goals.

(57) New West utilizes portfolio collections of student work evaluated according to school-wide rubrics for monitoring student progress.

(58) New West utilizes Student-led Conferences which require the student to present his/her portfolio to his/her family/guardians for review and explanation.

(59) New West employs credentialed/certificated, NCLB highly-qualified teachers, who are chosen for their demonstrated excellence in their fields of study, their ability to work collaboratively, their excitement about the prospect of ongoing professional development, and their commitment to the opportunities available to charter schools.

(60) New West uses teaching aides, parent volunteers, and "Scholars-in-Residence" to help in the classroom, to offer enrichment and extracurricular experiences, and to help inspire and model a love of learning in the school's students.

(61) New West requires parent participation as one of the cornerstones of its educational program.

(62) New West promotes community involvement in the school and requires student involvement in the community.

E. Curricular and Instructional Design

New West's central focus in curricular development is aligning and integrating state content standards, state curriculum frameworks, the school's desired exit outcomes, multiple measures of assessment, and relevant classroom instructional methods and materials. New West organizes the design and implementation of its educational program around the following curricular and instructional dimensions applied to each of the core academic and supplemental content areas discussed in the following sections:

(63) **Instructional Objectives.** Define what is taught and learned (i.e., the state content standards for each area of the curriculum as identified by subject in the following sections).

(64) **Instructional Design.** Strategically selected and sequence the information that is taught, including what to teach, when to introduce skills and concepts, how to select examples, how to integrate standards, and how to teach for transference and generalization.

(65) **Instructional Delivery.** Establish procedures and strategies for teachers to use in developing students' skills and knowledge, including what teachers and students do (e.g., modeling, pacing, reinforcement, questioning, corrections, feedback) and the structure of delivery (e.g., teacher demonstration or modeling, guided practice, peer-mediated instruction, and independent practice and application).

(66) **Differentiation.** Establish procedures and strategies for students with special academic, emotional, or physical needs, for students who are advanced learners, and for students who are English language learners, including decisions about modification of materials and the pacing of content and objectives.

(67) **Assessment.** Address the three critical purposes of assessment: entry level assessment for instructional planning (i.e., how to determine skill levels through

meaningful indicators of proficiency prior to instruction); monitoring student progress toward the instructional objective (i.e., how to determine student progress on skills and concepts during instruction); and post-test assessment toward learning standards (i.e., how to determine the teaching effectiveness and student proficiency after instruction).

(68) **Instructional Materials.** Select instructional materials that: have an appropriate sequencing of content, skills, and strategies; provide an adequate number and range of examples; address prerequisites for learning through a sufficient review of previously taught content, skills, and strategies; and include assessment tasks that parallel the content to be mastered.

F. Curriculum Guidelines

The primary resources for determining the detailed content and scheduling of the curriculum for core disciplines are:

(69) **State curriculum frameworks**. These are developed by the California Curriculum Development and Supplemental Materials Commission and adopted by the California State Board of Education.

(70) **State content standards**. These are developed by the California Commission for the Establishment of Academic Content and Performance Standards (Academic Standards Commission) and adopted by the California State Board of Education pursuant to the Leroy Greene California Assessment of Academic Achievement Act [EC 60600 et seq.].

The state curriculum frameworks and state content standards, as cited individually in the following sections, are incorporated by reference as part of the Charter. New West uses these frameworks and standards as the baseline control for assessing the school's curriculum. New West incorporates revised versions of the state curriculum frameworks and state content standards as they become available. The sections below outline some of the fundamental principles that guide the school's curriculum.

G. Overview of New West's Educational Program

Discussion and details of many operational aspects of the school's curriculum and other educational activities are presented in a separate document — the *New West Charter Middle School Educational Program*. This description of the school's educational program is included as an addendum to this charter renewal. This document was researched and written by the school's Educational Study Panel in 2001-02 (see footnote 4 above), reviewed by the California Department of Education, and approved by the State Board of Education in May 2002 as a condition for the school to open in September 2003. The *Educational Program* supplements and enhances the educational philosophies, curricular design, and academic aspirations presented in this section of the charter renewal (*Element A: Description of the Educational Plan*).

1. Elements of a Model Middle School

New West's Educational Study Panel was guided by its research to reach the following conclusions regarding the design of a model educational program.

(71) Middle school must not be a junior version of high school.

(72) Middle school must be student-based, not subject-based, and must create a strong sense of ownership and community for the students if the school is to hold onto the adolescent students during these difficult, emotional, "at-risk" years.

(73) Middle school must present a welcoming environment for all — students, teachers, parents, families, and community members.

(74) Middle school must be small, with small class size.

(75) Middle school must create a culture and climate of respect and safety.

(76) Middle school must be a place where it is "safe to be smart." Students must become life long learners, and not fall prey to the negative pressures of adolescence.

(77) Middle school must be a supportive place where it is "safe to be who you are," regardless of race, religion, ethnicity, culture, sexual orientation, disability, or abilities.

(78) Middle school must be academically excellent, developmentally responsive, and socially equitable.

(79) Middle school must encourage cooperation and collaboration.

(80) Middle school must be staffed by experts at teaching young adolescents. Teachers must ensure "success" for all students. They must love to work with this age group. They must be flexible academically and psychologically. They must have a mastery of techniques to engage students actively and to differentiate instruction. They must use a multi-materials approach to instruction.

(81) Middle school must let inspiration, not information, drive teaching techniques and teaching materials that cover the content standards, to foster curiosity, creativity and the thirst for information among students.

(82) Middle school must have parental involvement and excellent communication between home and school to foster success and pride in the school.

2. Guidelines for New West's Educational Program

The Educational Study Panel's goal was to create a paradigm for an excellent Los Angeles public middle school based on the conclusions from its research as listed above. The Educational Study Panel used the following guidelines in developing its educational blueprint — the *New West Charter Middle School Educational Program*. These same guidelines continue to apply as the school strives to fully develop and improve its educational program during its first few years of operation.

(83) **School Accountability**. Each and every member of New West's school community, from administrator to teacher to student to parents to community volunteers to non-instructional staff, is fully accountable for their role in the educational, financial, and emotional success of the school.

(84) **Standards-Based Curriculum**. New West's educational program is standards-based and fully aligned with the State of California Department of Education Standards.

(85) **Professional Educators**. New West employs fully credentialed middle school educators who work as a team under the guidance and direction of the school's Director/Principal.

(86) **Academic Excellence**. New West has an academic culture of high expectations, high standards, and high accountability for all students.

(87) **Multiple Learning Opportunities**. New West provides multiple opportunities for students to explore a rich variety of topics and interests, using instructional strategies that actively engage students and foster their curiosity and creativity.

(88) **Students as Assets**. New West has a strong, formalized advisor/advisee program for building assets. Students meet together daily throughout the year with

the same teacher. This program has a strong team-building and service-learning component drawing on concepts outlined in the Building Assets for Youth Program. The advisor/teacher, who is also the homeroom teacher, works with advisees/students to build a trusting, nurturing relationship that allows them to deal with sensitive issues and concerns. The intent is for students to gain emotional strength, self-knowledge, and social skills through their participation in the advisory program.

(89) **Small Class Size**. New West believes that size counts — small class size is a high priority when allocating resources. Class size is as small as possible, never greater than about 25 students per classroom, in order for teachers to provide differentiated instruction that addresses the many different levels of ability and learning styles of students.

(90) **Heterogeneous Classes**. Students are grouped heterogeneously to preserve a dynamic and challenging classroom[12]. This prevents a "smart versus dumb" classroom mentality, and better reflects real-life experience in the workplace. Classes are inclusive, respectful, and tolerant, and challenge each student according to their abilities. Compacting instruction, then differentiating instruction through depth, complexity, and/or novelty, is employed to address gifted students. Remedial opportunities, supplemental instruction, and modified assignments are available to students having academic difficulty.

(91) **Individualized Instruction**. New West is developing individualized learning plans for each student. When students first come to New West, their past records are analyzed and they are tested and evaluated to develop a baseline profile of their academic achievements and abilities. Early in the school year, a Personalized Education Plan (PEP) is developing for each student through a collaborative process involving the student, the parents, and the student's teachers based on past record and current testing and assessments. The PEP will specify the school's academic expectations and the student's goals for meeting or moving beyond those expectations. The PEP will also identify elements of asset development, study skills, and social skills on which the student should focus.

(92) **Welcoming Environment**. New West maintains a school environment that is accessible, inclusive, and welcoming for students, parents, teachers, administrators, and community members. There is excellent and frequent communication between home, school, and the community to keep all parties informed and involved. The result is ownership and pride in the school.

(93) **"Team" Identity**. New West finds the heterogeneous team (or family) model to be an attractive way to create school community and friendly competitive challenge, without the academic achievement component. "Families" are designed to prevent any student from "falling through the cracks." A Family consists of the four core subject teachers, who remain responsible for the same group of students all year, and who meet together with those students as a Family. These teachers review issues affecting each student, perceive trends or changes in behavior, and intervene in a timely fashion.

(94) **Block Scheduling**. New West uses the block scheduling of core subjects during some part of its weekly calendar to provide extended class time for in-class projects and learning opportunities.

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[8]. The exception is mathematics, where students are placed in different classes according to their level of mastery of the state curricular standards.

(95) **Mentoring**. New West has a strong mentoring component between students and their homeroom teacher, who is usually one of their core subject teachers. This is accomplished through abbreviated home room periods at the beginning and/or end of school as well as the possibility of additional time for advisor/advisee meetings at lunch. The intent is to provide an opportunity to build student assets, to talk about events or issues of the day, and to schedule individual private time with students as needed. Touching base with the homeroom group twice a day creates a much stronger bond between teacher and students.

(96) **Scholars-in-Residence**. New West is developing a program that brings members of the community to the school to offer master classes, inspire role models, and teach enrichment classes. Scholars-in-Residence might include professional writers, mathematicians, scientists, historians, cultural anthropologists, artists, performers, and others willing to contribute to the educational opportunities available at the school.

(97) **Character Development**. New West fosters a positive school environment and individual success by encouraging students to develop a strong character and become responsible, ethical members of society. Faculty role-modeling, mentoring, the Home School Contract, the school's discipline policy, an emphasis on personal responsibility, and service learning component all focus on this goal.

(98) **Social Equity**. New West embraces the diverse cultures, ethnicities, religions, and life styles represented in the school, in our nation, and in the world. New West continually adapts to meet its students' diverse and changing needs. Social events such as mixers, dances, and picnics, for students and for families, help the school feel a sense of community.

(99) **Study Skills**. New West offers study skills education, mentoring in the home room, course expectations in every class, and enrichment and after-school courses. It is essential for later academic success that middle school students learn time management, research skills, and a personal understanding of "doing your best work."

H. Core Curriculum

New West's core curriculum consists of the following subject areas taught by credentialed, NCLB highly qualified teachers:

1. Reading and Language Arts

With regard to the basic tenets for teaching reading and language arts in grades 6-8, New West will:

(100) Make reading and language arts exciting, relevant, and fun!

(101) Present an effective reading and language arts curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Reading/Language Arts Framework for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 1999).

(102) Cover the grade-level curricular content specified in *English-Language Arts Content Standards for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 2000).

(103) Emphasize content and learning experiences in reading and language arts that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics

listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(104) Emphasize reading and language arts as central to all academic subjects for obtaining and communicating information.

(105) Emphasize English Language Development Standards as required for English-language Learners as appropriate per their level of proficiency.

(106) Teach fiction and non-fiction writing.

(107) Set high standards for fundamental spelling and grammar skills.

(108) Teach students strong, fundamental skills for researching information, taking notes, organizing ideas, developing an outline, using the dictionary, and editing and revising.

(109) Develop oral communication skills through group discussions and classroom presentations.

(110) Expose students to the different modes of written expression, from poems to movie scripts, as well as the diversity of literature through time and across cultures.

(111) Develop the mechanics of creative writing, journalism, business communication, and scientific writing.

(112) Endeavor to recruit a cadre of Writers-in-Residence (e.g., volunteers who professionally rely on reading and language arts such as authors, journalists, and screen writers from the community) who want to participate in classroom teaching, supervise projects, and give “Master Classes” such as creative writing as part of the school’s enrichment and extracurricular educational program.

2. Mathematics

With regard to the basic tenets for teaching mathematics in grades 6-8, New West will:

(113) Make mathematics exciting, relevant, and fun!

(114) Present an effective mathematics curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Mathematics Framework for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 1999; the draft framework now being worked on will be used when adopted by the State Board of Education).

(115) Cover the grade-level curricular content specified in *Mathematics Content Standards for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 2000 revised edition).

(116) Emphasize content and learning experiences in mathematics that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(117) Emphasize fluency with traditional (abstract) mathematical concepts, statistics, and computation skills.

(118) Employ innovative and interactive teaching methods that have proved most effective in teaching mathematics including its relevance as a life skill for everyday living.

(119) Use a serial approach to the continuum of mathematics to provide the necessary building blocks for deeper conceptualization.

(120) Integrate mathematics with scientific quantification to emphasize the interrelation-ships among math, science, and technology.

(121) Use the computer as integral part of the study of mathematics.

(122) Endeavor to recruit a cadre of Mathematicians-in-Residence (e.g., accountants, engineers, and other community volunteers who use mathematics on a daily basis) who want to participate in classroom teaching, supervise projects, and give “Master Classes” as part of the school’s enrichment and extracurricular educational program.

3. Science

With regard to the basic tenets for teaching science in grades 6-8, New West will:

(123) Make science exciting, relevant, and fun!

(124) Present an effective science curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Science Framework for California Public Schools: Kindergarten through Grade Twelve*, (California Department of Education, 2003).

(125) Cover the grade-level curricular content specified in *Science Content Standards for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 2003 revised edition).

(126) Emphasize content and learning experiences in science that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(127) Develop a traditional and an integrated science program that combines the core sciences of biology, physics, and chemistry, each year.

(128) Teach students to understand and intuitively use the scientific method: identify a problem and pose relevant questions, state a hypothesis, conduct an experiment, understand the variables, analyze the data, and reach a conclusion or solution that serves as the hypothesis for the next round of inquiry.

(129) Compensate for traditional gender bias experienced by girls in science, which becomes especially prevalent at the middle school level, by choosing teachers and textbooks that make scientific knowledge and inquiry exciting to all students.

(130) Study science in a global context that addresses environmental issues and their social implications.

(131) Introduce the basic concepts of physics and chemistry so that students may develop an early appreciation for these subjects.

(132) Teach science and mathematics as co-operative and closely integrated subjects.

(133) Use the computer as an integral part of science and technology for information retrieval, data acquisition, scientific analysis, and communication of results.

(134) Take science field trips that integrate with the curriculum and enrich the appreciation for science and technology.

(135) Engage students in Science Portfolio Projects and Science Fair Projects that are accomplished on site with the help of “tutors,” “volunteer” parents, and “service learning component” high school and college students.

(136) Endeavor to recruit a cadre of Scientists-in-Residence (e.g., volunteer professional scientists and engineers from the community) who want to participate in classroom teaching, supervise projects, and give “Master Classes” as part of the school’s enrichment and extracurricular educational program.

4. History and Social Science

With regard to the basic tenets for teaching history and social science in grades 6-8, New West will:

(137) Make history and social science exciting, relevant, and fun!

(138) Present an effective history and social science curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *History-Social Science Framework for California Public Schools: Kindergarten through Grade Twelve*, (California Department of Education, 2001 updated edition).

(139) Cover the grade-level curricular content specified in *History-Social Science Content Standards for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 2000).

(140) Emphasize content and learning experiences in history and social science that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(141) Treat a thorough knowledge of geography as fundamental to understanding the flow of history, the interrelationships among the world’s peoples, and man’s interaction with the natural world.

(142) Study the contributions of scientists, writers, explorers, composers, artists, leaders, and keepers of the cultural heritage in perspective to their time and place in history.

(143) Present historical material through many mediums: performance, literature, historical letters and other primary sources, art, biography and historical account.

(144) Develop in students a global perspective on the diversity of cultures, and the dignity of the individual by using comparative philosophy, ethics, religion, economic systems and government, as well as foods, fashions and the arts, to sensitize students to the world around them and the diversity families they live among.

(145) Teach cultural diversity, both ancient and modern, through studying archeology, anthropology, history, and geography.

(146) Seek to create an International Studies model that interrelates all subjects studied at New West.

(147) Endeavor to recruit a cadre of Scholars-in-Residence (e.g., community volunteers who are historians or social scientists) who want to participate in classroom teaching, supervise projects, and give “Master Classes” such as archeology or religions of the world as part of the school’s enrichment and extracurricular educational program.

I. Supplemental Curriculum

New West core curriculum is supplemented by the following elective or required subject areas. New West may also offer elective courses in others areas designed to meet the needs and interests of the school's students (e.g., debate, journalism, creative writing, science fair projects, and study skills). The supplemental curriculum is taught be a combination of the schools regular teachers, the schools non-credentialed instructional staff, and/or Scholars-in-Residence who have an interest and expertise in the elective subject. Grading and credit for electives is determined by the Director/Principal in accordance with school policies and in consultation with the person(s) teaching the course.

1. World Languages

With regard to the basic tenets for teaching world languages in grades 6-8, New West will:

(148) Make learning a second language exciting, relevant, and fun!

(149) Present an effective world languages curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Foreign Language Framework for California Public School: Kindergarten through Grade Twelve* (California Department of Education, 2003).

(150) Cover the grade-level curricular content specified in *Foreign Language Standards: Draft Interim Content and Performance Standards* (California Department of Education, 1995; revised content standards for foreign languages will be used when adopted by the State Board of Education) and *Standards for Foreign Language Learning: Preparing for the 21st Century* (American Council on the Teaching of Foreign Languages, 1995).

(151) Emphasize content and learning experiences in world languages that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(152) Take advantage of developing brain pathways at an early enough age to make language acquisition easy, and to use the learning of languages to open new pathways in the brain.

(153) Endeavor to offer choices in second languages, modern and classical, such as Spanish, French, Chinese, Japanese, or Latin, as feasible.

(154) Use the study of language to help develop international competence by increasing students' awareness and appreciation of other cultures and beliefs.

(155) Teach world languages in an immersion program, if possible.

(156) Establish a language lab to promote language acquisition, if possible.

(157) Use an integrated approach in which reading and the language arts facilitate and reinforce language fluency.

(158) Study great books in their original languages.

(159) Seek a grant to create an International Studies Program that interrelates language and cultural studies to all other subjects studied at New West.

(160) Endeavor to recruit a cadre of Linguists-in-Residence (e.g., community volunteers fluent in languages other than English) who want to participate in classroom teaching, supervise projects, and give "Master Classes" as part of the school's enrichment and extracurricular educational program.

2. Visual and Performing Arts

With regard to the basic tenets for teaching the visual and performing arts in grades 6-8, New West will:

(161) Make learning about the visual and performing arts exciting, relevant, and fun!

(162) Present an effective visual and performing arts curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Visual and Performing Arts Framework for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 1996; the draft framework now being worked on will be used when adopted by the State Board of Education).

(163) Cover the grade-level curricular content specified in *Visual and Performing Arts Content Standards for California Public Schools: Prekindergarten through Grade Twelve — Dance, Music, Theatre, Visual Arts* (California Department of Education, 2001).

(164) Emphasize content and learning experiences in the visual and performing arts that allow students to develop the skills, knowledge, and attitudes necessary to meet the measurable student outcomes for critical thinking and core academics listed in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

(165) Treat the visual and performing arts as an integral component of a balanced liberal arts education.

(166) Implement the visual and performing arts as a comprehensive, curriculum-based educational component, designed to introduce art, music, and culture, both in the classroom setting, and in combination with multiple museum and concert visits.

(167) Incorporate in the curriculum slide-illustrated and music-recording discussions, as well as studio art, music, and performance experiences.

(168) Study the visual and performing arts from both historical (classical) and contemporary (multi-media, digital arts) perspectives.

(169) Train teachers through professional development workshops to use the visual and performing arts as a way of studying and communicating about core academic subjects.

(170) Endeavor to recruit a cadre of Artists-in-Residence (e.g., artists, musicians, and actors from the community) who want to participate in classroom teaching, supervise projects, and give “Master Classes” as part of the school’s enrichment and extracurricular educational program.

3. Physical Education and Health

With regard to the basic tenets for teaching physical education and health in grades 6-8, New West will:

(171) Make physical education and health exciting, relevant, and fun!

(172) Present an effective physical education curriculum incorporating elements of the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Physical Education Framework for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 1994).

(173) Incorporate elements of the grade-level curricular content specified in *Challenge Standards for Student Success: Physical Education* (California

Department of Education, 1998) and *Moving into the Future: National Standards for Physical Education: A Guide to Content and Assessment* (National Association for Sport and Physical Education, 1995).

(174) Develop an effective health curriculum using the grade-level considerations, instructional strategies, and assessment guidelines outlined in *Health Framework for California Public Schools: Kindergarten through Grade Twelve* (California Department of Education, 2003).

(175) Cover the grade-level curricular content specified in *Challenge Standards for Student Success: Health Education* (California Department of Education, 1998).

(176) Provide a physical education program that prepares students for the State's physical education testing in terms of fitness and that also offers both individual and team sports including volleyball, soccer, basketball, baseball, softball, track, dance, gymnastics, and other physical activities that promote life-long fitness, teamwork, and individual abilities.

(177) Focus on issues of good-sportsmanship, maintaining a healthy body, and performing at their personal best in an atmosphere of fun.

(178) Have students learn and apply good physical, social, and emotional health concepts related to healthy nutrition, substance abuse, sex education, and other issues.

(179) Endeavor to recruit a cadre of Coaches-in-Residence (e.g., community members with special athletic talents or coaching experience) who want to participate in physical education instruction, supervise sports, and give "Master Classes" as part of the school's enrichment and extracurricular educational program.

J. Instructional Materials

New West evaluates the instructional materials used in the school's educational program on a yearly basis. New West relies on the professional judgment of its educators to select educational materials that best meet the needs of students at the different grade levels. Educational materials are selected from state-adopted lists to ensure that they reflect state content standards for the core subjects of reading and language arts, mathematics, science, and history and social science. New West includes professional development time for teachers to learn how best to use the selected instructional materials in the curriculum. New West plans ahead and budgets sufficient resources to insure that all students have the needed textbooks, workbooks, computer software, and other instructional materials. New West prints its own report cards and purchases assessment tools such as testing texts and state and national standardized testing materials as needed.

K. Service-Learning

New West incorporates service-learning as an integrated component of its educational program. In service-learning, students learn and develop through active participation in thoughtfully organized activities in the community, including but not limited to civic, charitable, social, or environmental involvement. Such participation addresses community needs, strengthens the bonds between student, school, and community, and instills personal and social responsibility. Moreover, research has shown that service-learning increases

student learning when it is integrated into and enhances the school's academic program. New West embraces the following strategies to promote service-learning[13]:

(180) Develop policies and plans to ensure that students have academically meaningful, sequential, and sustained service-learning experiences.

(181) Link service-learning to state and school academic standards, assessments, and accountability tools.

(182) Work collaboratively with community partners, state organizations, and national service providers (e.g., AmeriCorps and VISTA) to ensure that roles and responsibilities are clear, service is meaningful, and all partners are committed to success.

(183) Give students a voice by involving them in planning, implementing, and evaluating service-learning activities.

(184) Provide ongoing training and professional development for teachers, administrators, community partners, students, and family members so that everyone understands service-learning.

(185) Include service-learning as a vital instructional strategy in teacher education programs.

An integral part of the community learning component of New West's curriculum is the Scholars-in-Residence Program that brings knowledgeable parents and community members to campus to participate in various aspects of New West's educational program (see *Required Elements of the Charter: Section I.M. Scholars-in-Residence Program*).

L. Enrichment and Extracurricular Programs

New West's in-school enrichment programs and after-school extracurricular activities are part of the school's overall educational plan. These programs and activities supplement and complement classroom instruction in the core academic areas, and provide ancillary experiences for students that broaden their skills, knowledge, and attitudes in areas not addressed by New West's formal curriculum. The nature and schedule of activities varies as parents come and go, as community members volunteer their time, as the educational needs and expertise of classroom teachers evolve, and as the interests and talents of the student body change from year to year. Many of the enrichment and extracurricular activities are presented or supervised by Scholars-in-Residence as described in the next section.

M. Scholars-in-Residence Program

New West's developing Scholars-in-Residence Program is intended to supplement and complement the core instructional program taught by the school's credentialed teachers. Scholars-in-Residence may include: parents, interested community members, or hired part-time teachers, who are, for example, authors, journalists, or screen writers (Writers-in-Residence), accountants or engineers (Mathematicians-in-Residence), historians or social scientists (Scholars-in-Residence), scientists or engineers (Scientists-in-Residence), volunteers fluent in a foreign language (Linguists-in-Residence), artists, musicians, or actors (Artists-in-Residence), and athletes or coaches (Coaches-in-Residence). These people, who have become experts in their areas through education, training, professional practice, or avocation, inspire and model the love of learning and high achievement among New West's students. The intent is to have a substantive number of volunteer "educators" available to participate in classroom activities, to supervise projects under the direction of the classroom

[13]. Adapted from *Service Learning: Linking Classrooms and Communities* (The Report of the Superintendent's Service-Learning Task Force, California Deparment of Education, 1999).

teachers, and to offer “Master Classes” as part of the school’s enrichment and extracurricular educational program.

N. Academically Low-Achieving Students

New West has the goal of increasing learning opportunities for all of its students, with special emphasis on expanded learning experiences for students identified as academically low achieving and at-risk. The initial component of New West’s program for low-achieving and at-risk students is early identification of students with deficiencies in any academic area but especially the core subjects of reading and language arts, mathematics, science, and history and social science. New West notifies and works with the parents of low-achieving students so they can be actively involved in the development and implementation of remediation of their children’s academic deficiencies. Students at risk of failing to meet state adopted academic standards, or who are at risk of retention, receive intervention and extra attention in and outside the classroom. Raising the proficiency of academically low-achieving students usually involves some combination of differentiated instruction (see the next section), required supplemental education classes after school, on weekends, and/or during the summer, and at-home remedial work. Emphasis is on methods that allow low-achieving and at-risk students to gain new knowledge, to learn new strategies for acquiring information and solving problems, and to enhance their perspective on the value and excitement of learning.

Professional development for New West’s teachers includes specific training in recognizing academically low-achieving and at-risk students, understanding how they can be helped to raise their achievement levels, and applying appropriate methodologies including differentiation and intervention in the classroom. The school’s role includes counseling parents about parenting styles that foster high educational expectations of children, the cognitive and socio-emotional needs of low-achieving children, and strategies to use at home to reinforce and extend the remedial efforts that take place at school.

O. Gifted and Talented Students

New West is a high-performing school with many gifted and talented students whose learning characteristics, thinking aptitudes, and abilities differ significantly from those of their same-aged peers. New West emphasizes an educational culture of differentiated learning in which gifted and talented students can acquire skills and understanding at advanced ideological and creative levels matching their potentials. Differentiated instruction includes complexity (making connections or seeing relationships), acceleration (advanced content through curriculum compacting), novelty (introducing new areas of study), and depth (exploring a subject in greater depth). Differentiation at New West includes lessons, discussions, and approaches that involve the whole class, flexible groups within a class with students changing groups to be taught at the appropriate level, tiered lessons that have specific learning objectives aligned to the needs of individual students, and clustering of students in special classes.

New West’s gifted students are served also by the school’s emphasis on developing a diverse spectrum of high-quality in-school enrichment programs and after-school extracurricular activities. These supplemental educational activities provide a framework for classes especially designed to address the varied talents of the school’s gifted students (for example, an advanced class in creative writing, a math club, or a jazz band that provides new horizons in music).

Gifted and talented students are assessed and identified on the basis of intellectual, creative, academic, or leadership ability and achievement, talent in the visual and performing

arts, or other criteria that the school finds appropriate. New West recognizes that its educational program must be flexible enough to accommodate students that achieve highly in all areas as well as those who demonstrate special abilities in just one area.

Professional development for New West's teachers includes specific training in recognizing gifted and talented students, understanding what differentiated instruction is, and applying differentiation in the classroom. The school's role include counseling parents about parenting styles that support giftedness, the cognitive and socio-emotional needs of high-achieving children, and strategies to use at home to reinforce and extend differentiated experiences at school.

New West believes that differentiated instruction according to the abilities and achievement levels of individual students is the appropriate methodology for addressing the needs of all students from the lowest achieving to the most highly gifted. Differentiation provides a richer, more meaningful learning experience for all students by insuring that instruction is individually tailored to engage each student to achieve their full potential. Consistent, frequent use of differentiation over time raises the achievement levels of all students in the class.

P. English Learners

Learning best occurs for English learners when there is a program for English language development that assists, encourages, and motivates students to achieve English language proficiency at the fastest possible rate. Such a program includes structured immersion instruction for English learners, such as specially designed academic instruction in English and sheltered English strategies to ensure access by English learners to the full range of educational opportunities that New West envisions for all its students.

New West administers the California English Language Development Test (CELDT) to identify and assess students whose primary language is not English, as identified on the Home Language Survey that is distributed to parents with enrollment and re-enrollment forms. Results of this test determine appropriate instructional strategies for students acquiring the English language. Teachers use school benchmark assessments to monitor progress and to determine if students need interventions. New West's program allows English learners to achieve the following:

(186) Academic proficiency in all dimensions of the English language.

(187) Proficiency in the English language at an appropriate rate of time.

(188) Academic achievement in all subject areas at a comparable rate to their peers.

(189) Self-esteem and pride in one's language and culture and the ability to relate positively to all cultural groups.

Q. Students with Disabilities

New West is fully inclusive in providing special needs students with a free and appropriate education (FAPE) in a least restrictive environment as an integral part of New West's educational culture (see *Special Education*). New West's approach to special education is an extension of the school's mission to have "a personalized learning environment that both encourages and challenges each student according to his or her ability through differentiated instruction in an integrated curriculum" (see *Mission Statement*). New West provides a full service special education program based on the following values and goals:

(190) New West embraces the diversity of students as individuals and guarantees the right of each student to equity and access to New West's educational opportunities.

(191) New West acts as the advocate of each student who requires individualized attention to participate fully in New West's educational program.

(192) The unique instructional needs of students are identified early and accurately, followed by regular, ongoing reassessments of those needs and the school's success in providing for them.

(193) Students with disabilities, to the greatest extent possible, are integrated with non-disabled peers into New West's educational environment that spans a home-school-community continuum of educational experiences, and includes the full range of academic, non-academic, and extracurricular activities.

(194) The individualized education plan (IEP) of each student emphasizes powerful, positive results through collaborative partnerships that involve the student, the student's parents, teachers, special education personnel, and school and SELPA administrators.

(195) The IEP is formulated in ways that allow the student with disabilities to meet or exceed New West's high standards for academic excellence, character development, and lifelong learning (see Table 1), and prepare the student to continue these skills at a college preparatory high school.

(196) Students with disabilities are taught or served by fully qualified teachers and special education personnel capable of meeting their needs.

(197) Regular classroom teachers include special education issues as a regular part of their professional development efforts in order to better identify, assess, understand, and serve students with disabilities.

(198) New West bases its special education program on research and best practice, and has a committee that focuses on special education to monitor and revise the school's policy and programs accordingly.

(199) New West conforms to all federal and state laws in its decisions, programs, and actions to guarantee special needs students with a free and appropriate public education (FAPE).

(200) New West follows the recommendations of the California Department of Education with respect to grading, promotion, and retention of special needs students[14].

R. Faculty Mentor Program for Student Counseling

New West has plans to develop a counseling program that matches each student with a Faculty Mentor, who is a full-time educator at the school (usually the homeroom teacher or an administrator). The mentor and student meet on a regular basis throughout the three years of middle school to evaluate the student's progress and discuss any academic or personal difficulties that the student may be having. The Faculty Mentor closely monitors the development of each student while at the same time serving as an advocate who the student can trust to discuss problems and prospects that may arise at school.

S. School Calendar and Instructional Time

As a charter school, New West determines its daily, weekly, monthly, and yearly school calendar, including the length of the school year, the length of the school day, the total number of instructional minutes and days, the hours of daily operation, the daily class schedule, and other parameters of its instructional calendar. New West's school calendar is set by the Director/Principal and approved by the Board of Directors. New West provides the District with its bell schedule annually by November.

[14]. See *Guidelines for the Promotion and Retention of Special Education Students* (Task Force for the Promotion and Retention of Special Education Students, Special Education Division, California Department of Education, 2000).

New West currently follows a single track instructional school calendar that extends from early September to the middle of June. Typically, there are 180 school days (35-36 weeks). The school day during 2006-7 begins at 8:30 AM with dismissal at 3:30 PM four days a week and 1:30 PM the fifth day to allow time for the weekly professional development activities. The total number of instructional minutes is about 58,000 per year (not counting lunch, recess, and class changes), which substantially exceeds the 54,000 minutes of instruction required by law for charter schools serving grades 6-8 [EC 46201(a)(3)(C) and 47612.5(a)(1)]).

The daily class schedule, which is currently a mixture of traditional periods and block scheduling, is set to best accommodate the curriculum and the strengths of the classroom schedules. Additionally, provided resources and/or volunteers are available, New West envisions extended day, after-school enrichment, extracurricular, and remedial instruction activities lasting 60-180 minutes depending on the activity and daily school schedule.

New West's calendar includes substantive opportunities for the professional development activities of the educational staff. Teachers are required to report to school one week before the first day of classes. There are a number of "pupil free days" scattered throughout the year and weekly "pupil free afternoons" when students are dismissed from school early. Each individual teacher typically has one free period each day. These pupil free times provide New West's instructional staff ample time for classroom preparation, grade level and subject area conferences, curriculum development, professional development, staff meetings, and other activities relevant to the school's educational program.

T. Attendance

New West's attendance policy maximizes both student learning and the revenues available for the school's education program based on average daily attendance (ADA) rates. Regular, continuous attendance is one of the school's academic expectations of its students. Suspension or expulsion of students with continued attendance problems is governed by New West's discipline policy that includes counseling of students and parents, progressive intervention and remediation, and due process procedures (see *Required Elements of the Charter: Section X. Element J: Student Discipline including Suspension or Expulsion*).

New West's attendance accounting system complies with all District, county, state, and federal requirements and laws applicable to charter schools regarding attendance records, attendance reports, attendance audits, and ADA accounting, auditing, and certification for the purpose of apportioning school funding. New West maintains written records that document all student attendance and makes these records available for audit and inspection as requested [EC 47612.5(a)(2)]. Classroom teachers record student attendance electronically on a daily basis through the student accounting software, with backup physical signed copies of attendance records.

The student information system is used to generate attendance summaries and reports required for school funding apportionments or other uses (see *Required Elements of the Charter: Section I. Y. Student Information System*). New West provides the District with the following attendance reports:

(201) Weekly attendance up to the fourth week prior to norm day (provided in September).

(202) First 20 days of instructional actual enrollment by grade level (provided in October).

(203) Monthly statistical report (provided on the Friday after the last day of the school month).

(204) P1 and P2 attendance reports (provided the first week of January and April, respectively).

U. Grading System and Report Cards

New West's grading system and report cards allow the school to record and assess student progress toward achieving the school's desired classroom-level, grade-level, and exit outcomes, and to communicate levels of achievement to students and their parents. The report cards reflect:

(205) Progress at each grade level toward meeting New West's graduation standards for academic excellence (critical thinking and core academics), character development (personal qualities), and lifelong learning (interpersonal and life skills) as described in Table 1 under *Required Elements of the Charter: Section II. Element B. Measurable Student Outcomes*.

(206) Competency with respect to grade-level state content standards for the core curriculum in reading and language arts, mathematics, history and social science, and science as adopted by the State Board of Education pursuant to Education Code Section 60605 [EC 47605(c)(1)] (see "Core Academics" in Table 1).

(207) Competency with respect to grade-level state content standards for the supplemental enrichment curriculum in world languages, visual and performing arts, and physical education and health (see "Core Academics" in Table 1). Not yet implemented.

(208) English language development (ELD) scores that measure the achievement of English learners toward English language competency.

(209) Recognition for participating in enrichment and extracurricular activities.

(210) Modifications appropriate for students with identified special needs as recommended by the student's IEP Team.

New West's report cards are evolving toward a standards-based grading system in which academic achievement scores indicate progress toward meeting school and state learning standards (e.g., 1=not proficient, unable to meet the standard; 2=partially proficient, partially meets the standard, 3=proficient, meets the standard; 4=advanced, exceeds the standard). Students are also graded for their effort toward meeting academic achievement standards (e.g., 1=poor; 2=inconsistent; 3=consistent; and 4=strong). The same four-level assessment applies to evaluations of work and study habits as well as learning and social skills. English language learners are graded in their advancement toward meeting state ELD standards in reading, writing, listening, and speaking (e.g., 1= beginning, 2=early intermediate, 3=intermediate, 4=early advanced, and 5=advanced). The assessment instruments used to determine student scores are given in Table 1 under *Required Elements of the Charter: Section II. Element B: Measurable Student Outcomes*.

New West currently issues report cards three times per year, at the end of each trimester, with additional progress reports issued during each trimester. The first reporting period focuses on early identification of low-performing and high-performing students who require intervention and/or differentiated instruction to meet their education needs.

V. Student Promotion and Retention Policies

New West assesses each student, upon admission to the school. This assessment of student ability and academic accomplishments is based upon, but not limited to, standardized test scores from the last grade attended before entering New West (usually grade 5), student transcripts from the previous year (usually grade 5), recommendations submitted by former teachers and administrators, and grade 6 classroom proficiency testing of review materials that takes place at New West during the first weeks of school (i.e., during the first reporting period). This baseline and the supporting documents become part of the student's permanent record used to assess and track student progress.

New West's policy regarding the promotion and retention of students is compatible and integrated with state standards. New West's promotion standards anticipate the entrance expectations of local public, private, and parochial high schools, to create a seamless matriculation to the next level of education. New West's promotion standards are based on progress toward attaining the skills, knowledge, and attitudes discussed below under *Measurable Student Outcomes*. Measures for evaluating student progress towards New West's graduation standards are discussed below under *Required Elements of the Charter: Section III. Element C: Measuring Student Outcomes*. New West does not endorse or practice a policy for grade-level advancement based on "social promotion."

New West's promotion and retention policy is modeled on the basic elements specified in Education Code Section 48070.5. The policy includes, but is not necessarily limited to, the following key points:

(211) The student's teacher(s) base the criteria for promotion and retention on a combination of statewide achievement tests (CST and CAT-6), student classroom grades accounted for in report cards, written evaluations and testimonials, and other authentic indicators of academic achievement as indicated in Table 1.

(212) With respect to standardized achievement tests, the required levels of proficiency set by New West for promotion to the next grade level are consistent with the minimum levels required for satisfactory performance established by the State Board of Education.

(213) Levels of proficiency in reading and language arts, and mathematics, are given the greatest weight in determining whether to promote or retain students.

(214) All student records are accessible for inspection when requested by a student's parents.

(215) Students at risk of being retained are identified as early in the school year as practicable to allow the greatest amount of time possible for intervention and remediation of weaknesses.

(216) The parents of students at risk of being retained are notified as early in the school year as practicable and they are given the opportunity to consult with the educators responsible for the decision to retain or promote.

(217) Parents can appeal to the Director/Principal the decision to promote or retain a student.

(218) Intervention and opportunities for remedial instruction are provided to students who are identified as being at risk for retention.

W. Professional Development for Educators

Professional development, which can be simply described as a lifelong commitment to professional competency, is a cornerstone of New West's educational plan. New West expects that its educators to be enthusiastic about professional development just as the school has the educational objective for its students to become self-motivated, competent, lifelong learners. Continued, sustained professional development and advancement are important criteria in yearly evaluations of the instructional staff with regard to promotion.

New West makes appropriate allocations in its instructional calendar to provide time for professional development. The Director/Principal, working with the teaching staff, is responsible for planning, scheduling, and monitoring the professional development activities of the school's instructional staff. Faculty are encouraged to attend professional conferences, to schedule on-campus workshops and seminars, to investigate best practices in middle school education, to confer with other middle school teachers, and to meet with elementary and high school faculties to address seamless transitions between schools.

Professional development includes time and opportunity for New West faculty to learn about new curricular materials that are adopted for use by the school. Most important, however, is for New West to provide time for its teachers to engage in critical reflection, to learn about pertinent educational issues, and to collaborate with colleagues through formal and informal discussions that sustain the school's reform efforts. It is through professional development that new teaching methods, new educational interventions, and new innovative programs are implemented and integrated into New West's educational program.

X. Accountability for the Educational Program

The Director/Principal, working collaboratively with the school's administrators, teachers, and parents, is responsible for the development of the school's educational program, including selection of books and curricular materials, measurable student outcomes, and methods for assessing student outcomes. New West relies on the experience of its educators and parents, the educational literature, best practices at other middle schools, and advice of educational experts and consultants, including instructional experts of the District, as may be appropriate to provide guidance about various aspects of the school's educational program. New West's Board of Directors has final authority to approve all aspects of the school's educational program including all substantive revisions to the educational program that may be required over time.

Y. Student Information System

New West maintains a computerized Student Information System (SIS) to manage student records including enrollment information, demographic information, emergency information, attendance, class schedules, grades, report cards, CBEDS information, state standardized test results, NCLB disaggregated data, disciplinary actions, and any other information that may be relevant about student activity at the school. The SIS provides data that can be used in a variety of ways including evaluation of student academic progress, ADA accounting, school surveys, the annual programmatic audit, and retrospective studies and prospective projections that may relate to the operation of the school and its academic programs.

Z. Matriculation to High School

Students graduating from New West are prepared in terms of academic excellence, character development, and life-long learning skills to continue their education at a rigorous, college preparatory high school. It is anticipated that most New West graduates will matriculate to local District high schools as either neighborhood residents or charter students.. Others will attend local parochial and private high schools. Acceptance at any of these public, parochial, or private schools is dependent on the specific admission policies of those schools.

II. Element B: Measurable Student Outcomes

New West students graduating from grade 8 meet the general goals for academic excellence, character development, and life skills that are outlined below in *Table 1: Student Exit Outcomes and Assessment Methods*. More specifically, with respect to academic excellence, measurable student outcomes (graduation standards) at New West include competency in the school's rigorous core curriculum that is aligned to state content standards for reading and language arts, mathematics, science, and history and social science as adopted by the State Board of Education pursuant to Education Code Section 60605 [EC 47605(c)(1)] (the state standards for each content area are identified in *Required Elements of the Charter: Section I.H. Core Curriculum*). These graduation standards are compatible with entrance expectations at local public, private, and parochial schools.

New West's graduation standards presume the satisfactory progress of students through a continuum of skill and grade levels. Accordingly, New West's exit outcomes are further subdivided into a list of the specific content and "classroom-level" skills that are taught in each subject area and grade. These specific grade and skill-level criteria are based on the California grade-level state content standards for reading and language arts, mathematics, science, and history and social science. Additionally, there is a similar breakdown of "benchmark" skills (i.e., promotion standards) that students must demonstrate at various points throughout their enrollment at New West in order to progress to each consecutive grade or skill level. These specific classroom-level and benchmark skills are incorporated into New West's report cards (see *Required Elements of the Charter: Section I.U. Grading System and Report Cards*). Methods for assessing the exit outcomes and successive subject area/grade level criteria in measurable terms are outlined in the next section (see *Required Elements of the Charter: Section III.A. Evaluating Student Performance*).

Exit outcomes, grade-level content, criteria for classroom-level skills, and benchmark standards for students with special needs are adapted as appropriate according to a student's Individualized Educational Program. Additionally, New West's reading and language arts standards for students with limited English proficiency (LEP) are consistent with the English Language Development standards mandated by state law [EC 60811].

Table 1. Student Exit Outcomes and Assessment Methods. Assessment methods: ST=standardized tests, P=portfolios, OE=observation/evaluation, SE=self-evaluation, IC=in class tests and quizzes, GP=group projects, CS=community service, STPS=student, teacher, parent surveys.

Exit Outcomes for Students Graduating from New West	Assessment Methods
ACADEMIC EXCELLENCE	
• **Critical Thinking**	
– Observational Skills: Students demonstrate their ability to see and convey findings using all their senses, to consider their audience and choose appropriate communication mediums, and to recognize the depth and breadth needed to get their message across effectively.	ST, P, OE, SE, GP
– Analytical and Reasoning Skills: Students demonstrate their ability to analyze information and provide accurate details in an organized manner, make fair comparisons, find distinguishing characteristics, and put things to the test in a rational way.	ST, P, OE, SE, IC, GP, CS
– Decision Making Skills: Students demonstrate their ability to evaluate options through the filter of their core ethical values, determine the significance to them personally, and predict the impact their choices will have on themselves and others.	P, OE, SE, STPS
• **Core Academics**	
– Reading and Language Arts: Students demonstrate mastery in reading, writing, listening, speaking and presentation skills, in multiple forms of expression, with communication skills	ST, P, OE, SE, IC, GP

Exit Outcomes for Students Graduating from New West	Assessment Methods
appropriate to the setting and audience; and comprehend and critically interpret multiple forms of expression, including literature from various time periods and cultures.	ST, P, OE, SE, IC
– Mathematics: Students demonstrate the ability to reason logically and to understand and apply mathematical processes and concepts, including those within arithmetic, algebra, geometry, etc.	ST, P, OE, SE, IC, GP
– Science: Students demonstrate their ability to utilize scientific research and inquiry methods to understand and apply major concepts underlying various branches of science, which may include physics, chemistry, biology, astronomy, and earth sciences.	ST, P, OE, SE, IC, GP
– History and Social Science: Students understand and apply civic, historical, and geographical knowledge in order to serve as responsible citizens in today's world of diverse cultures.	ST, P, OE, SE, IC, GP, CS
– World Languages: Students communicate and interact effectively in at least one language in addition to their native language and they will understand key aspects of the culture of the second language.	OE, SE
– Visual and Performing Arts: Students develop an appreciation for the arts, and self and group expression in the various visual and performing arts.	OE, SE, STPS
CHARACTER DEVELOPMENT	
• **Personal Qualities**	
– Respect: Students demonstrate their respect for others by being tolerant of differences, using good manners, being considerate of the feelings of others, and dealing peacefully with anger, insults, and disagreements.	OE, SE, STPS OE, SE, CS, GP, STPS
– Caring: Students show they care by being kind, compassionate, expressing gratitude, forgiving others and helping people in need.	OE, SE, STPS
– Trustworthiness: Students build a good reputation by being honest, reliable, and loyal, and having the courage to do the right thing.	OE, SE, CS, GP, STPS
– Fairness: Students demonstrate fairness by being open-minded, listening to others, not taking advantage of others, not blaming others carelessly, and by playing by the rules, taking turns and sharing.	P, OE, SE, STPS

Exit Outcomes for Students Graduating from New West	Assessment Methods
– Responsibility: Students always do their best and demonstrate accountability for their choices by doing what they are supposed to do, persevering, using self-control, being self disciplined, thinking before they act and considering the consequences.	P, OE, SE, STPS
– Adaptability: Students demonstrate their ability to embrace change, challenge assumptions, consider different angles, make speculations about all sorts of possibilities, and fully pursue their natural curiosity.	OE, SE, CS, GP, STPS
– Creativity: Students demonstrate their ability to use their imagination to create visionary ideas, consider "What if . . . ?" scenarios operate from their "gut" level and make remote connections between seemingly unrelated ideas or things.	_____
– Citizenship: Students demonstrate good citizenship by doing their share in making their school, community, and larger society better by cooperating with others, staying informed and voting, being a good neighbor, obeying laws and rules, respecting authority, and protecting the environment.	OE, SE, STPS
_____	OE, SE, STPS
_	OE, SE, STPS
LIFELONG LEARNING	
• **Interpersonal Skills**	OE, SE, STPS
– Team Player: Students participate effectively in a team, demonstrating their ability to share responsibility, divide work and to make an individual contribution to group efforts.	OE, SE, STPS
– Teaching: Students demonstrate an individual ability to teach others.	
– Leadership: Students demonstrate their ability to communicate ideas effectively to justify their position, persuade others, and responsibly challenge existing procedures and policies.	OE, SE, STPS
– Negotiation: Students demonstrate their ability to work toward agreements involving the exchange of resources and resolving different interests and opinions.	OE, SE, GP, P, STPS OE, SE, GP, P, STPS
– Diversity: Students demonstrate their ability to work well with individuals from diverse backgrounds.	OE, SE, IC, ST, STPS
• **Life Skills**	
– Fitness and Wellness: Students develop healthy lifelong habits and a balanced approach to physical fitness, nutrition, emotional stability, and positive social relations.	
– Technology: Students develop competency in information	

Exit Outcomes for Students Graduating from New West	Assessment Methods
technology and learn to evaluate critically all aspects of the technology. – Consumer Responsibility: Students critically evaluate the nature and impact of available goods and services and begin to make responsible choices. – Time Management: Students select goal-relevant activities, set priorities, allocate time and prepare and follow schedules.	

III. Element C: Measuring Student Outcomes

A. Evaluating Student Performance

New West uses multiple measures of student achievement to assess individual student progress and to facilitate continuous program evaluation (see Assessment Methods in Table 1). The overall goal of New West's assessment procedures is to monitor the progress of individual students toward attaining the academic excellence, character development, and life-long learning skills necessary to continue their education at a rigorous, college preparatory high school. Progress toward attaining the graduation skills, knowledge, and attitudes listed above in Table 1 is evaluated on an ongoing basis in each class through each grade level by compiling a comprehensive, longitudinal learning record for each student. This record of achievement is based on a variety of assessment methods including, but not limited to, conventional standardized test results, student portfolios of work accomplished, authentic written observations, and evaluations by teachers, written self-evaluations by students, classroom tests and quizzes, presentations of group projects, written evaluations of community service efforts, and student, teacher, and parent surveys. These assessments are aligned and integrated with state grade-level curriculum frameworks, state grade-level content standards, and New West's graduation standards as specified in Table 1.

During the school year, student achievement is regularly monitored through the use of curriculum-based measures. Progress toward mastering state content standards and meeting the student exit outcomes of Table 1 is evaluated using classroom-level assessments aligned to the school's curricular standards as appropriate for each grade-level and content area. Each fall, during the first reporting period, students are tested in the core content areas using standardized performance assessments. These fall assessments are evaluated by grade-level teacher groups to determine individual student strengths and weaknesses. These results allow for the identification of students who require, for example, differentiated gifted instruction or remedial intervention in the form of in-class attention or after-school tutorials. The standardized performance assessments are repeated in the spring during the fourth reporting period to assess student progress and identify students who may require remedial instruction during the summer.

New West, in designing and implementing its student assessment program, uses established scoring criteria and cross-validation of different measures and different evaluators to enhance the validity, reliability, and objectivity of non-quantitative assessment measures of student work such as portfolios and subjective evaluations by teachers.

Individual classroom teachers are primarily accountable for assessing their students' achievements with regard to classroom-level work and state content standards. Teachers are given time to meet on a regular basis to review student work and discuss the efficacy of the curriculum-based performance assessments. Team Leaders or Faculty Mentors, who consult with the teachers who are most familiar with a students work, are primarily responsible for grade-level assessments and progress toward fulfilling the skills, knowledge, and attitudes required for graduation. Teachers and Team Leaders may request other participants in a student's educational program to provide grades, evaluations, or other assessments as may be appropriate for their instructional role. Teachers are given time to meet on a regular basis to review student work and to establish performance standards.

Student progress toward achieving the school's desired classroom-level, grade-level, and exit outcomes is communicated to students' parents by means of report cards and regular conferences with the student's teachers and Faculty Mentor. The grading system and report cards are described above under *Required Elements of the Charter: Section I.U.).*

Assessment methods for students with special needs are adapted as appropriate according to a student's Individualized Educational Program. Additionally, New West administers the California English Language Development Test (CELDT) to assess the English fluency of all students whose primary language is not English [EC 60810]. The Director/Principal and the school's student success committee are available to explore solutions to problems or situations that may interfere with an individual student's ability to attain the skills, knowledge, and attitudes expected of New West students.

B. Statewide Standardized Assessments

New West administers to it students all tests required by state law that are applicable to charter schools. New West administers, in the same manner as other public schools, the statewide student assessments that are part of the Standardized Testing and Reporting Program (STAR) pursuant to Education Code Section 60605 [EC 47605(c)(1)]. As a condition of apportionment of state funding [Education 47612.5(a)(3)], New West provides annual certification that its students have participated in all required state testing programs. Currently, these state-wide standardized tests are the California Standards Test (CST) and the California Achievement Test (CAT-6).

New West uses the results of the California Standards Test (CST) as one of the multiple measures for assessing individual student achievement. New West requires that students meet the minimum levels for satisfactory performance established by the State Board of Education for promotion to the next grade. CST results are also one factor in determining whether students are eligible for New West's remedial or accelerated instructional programs. The results of standardized tests are not used as the basis for assigning grades in any content area on a student's report card.

New West anticipates researching a second standardized testing procedure for the purpose of cross-validation with the CST and California Achievement Test (CAT-6) to better characterize student strengths and weaknesses. New West continues over time to examine and refine its methods for assessing student outcomes to reflect the school's mission and any changes in statewide student assessments authorized in statute that may become applicable to charter schools.

C. Evaluating School Performance

The primary measures of New West's overall school performance are CST and CAT tests scores and the Academic Performance Index (API), which is a key part of the Public Schools Accountability Act of 1999 [EC 52056(a)]. The API is a single numeric score

between 200 and 1000 that reflects a school's overall annual performance on the Stanford 9 achievement test. The API score is used to assign a decile ranking that summarizes each school's performance relative to all schools statewide and to the 100 schools with the most similar demographic characteristics. API scores and rankings are also disaggregated for numerically significant subgroups of a school's student body based on gender, ethnicity, and socioeconomic status. The State Board of Education has adopted an API of 800 as the interim statewide target indicating a high level of performance to which all schools should aspire.

New West uses the API as its principal external benchmark to track the success of the school's educational efforts from year to year in comparison with other middle schools. Besides striving for the highest possible "all schools" and "similar schools" API ranking, New West compares itself to the local public middle schools with which it most directly "competes." These "all school," "similar school," and "local school" comparisons include analyses of numerically significant demographic subgroups (i.e., gender, ethnicity, and socioeconomic status). The school API and subgroup API's for New West and local middle schools are tracked longitudinally (i.e., evaluate the same-aged student cohorts at the successive grade levels) and cross-sectionally (i.e., evaluate successive student cohorts passing at the same grade level). Additionally, New West analyzes the school's classroom and grade-level test results and content cluster results. These analyses are used to determine if New West's educational program is working equally well in all content areas for all groups of students or if some adjustments are required.

New West holds itself accountable for meeting the annual API growth targets established by the State Board of Education for the school as a whole and for each numerically significant subgroup of students. The annual growth target is 5% of the difference between the school's API and the interim statewide performance target of 800. To be in compliance with statewide performance expectations, New West must meet 80% of the established API growth targets for each of the numerically significant subgroups. If New West fails to meet its API growth targets, then the school will convene its curriculum committee, its Educational Study Panel, and its Board of Directors to develop a plan for improvement of student performance that exceeds the API targets.

IV. Element D: Governance Structure

A. Board of Directors

The Board of Directors of New West Charter School, the California nonprofit public benefit corporation that operates the school, is New West's chief decision-making body.

1. Membership

The Board is comprised of 14 members (plus alternates) representing the school's various constituencies as follows:

(219) **Director/Principal**. The school's Director/Principal is appointed by the Board of Directors. The school's Assistant Principal, if any, serves as the alternate for the Director/Principal.

(220) **Three Parent Representatives**. The 3 Parent Representatives and 2 alternates are elected from and by parents whose children attend New West. Parent Representatives serve two year terms. Normally, 2 representatives and 1 alternate are elected in odd numbered years and 1 representative and 1 alternate are elected in even numbered years.

(221) **Three Founder Representatives**. The 3 Founder Representatives and 2 alternates are elected from and by New West's founding parents. Founder Representatives and their alternates serve two year terms. Normally, 1 representative and 1 alternate are elected in odd numbered years and 2 representatives and 1 alternate are elected in even numbered years.

(222) **Three Teacher Representatives**. The 3 Teacher Representatives and 2 alternates are elected from and by New West's full-time credentialed teachers. Teacher Representatives and their alternates serve two year terms. Normally, 1 representative and 1 alternate are elected in odd numbered years and 2 representatives and 1 alternate are elected in even numbered years.

(223) **Staff Employee Representative**. The Staff Employee Representative and alternate are elected by New West's full-time non-instructional employees. The Staff Employee Representative serves a two year term. Normally, the staff representative is elected in odd numbered years and the alternate is elected in even numbered years.

(224) **Two Community Representatives**. The 2 Community Representatives and 1 alternate are appointed by majority vote of the Board of Directors from volunteers who express an interest in the school. One should have experience in education and the other experience in business, and the alternate community can have a background in either expertise. These representatives cannot be founders, parents of children attending New West, or employees of the school.

(225) **District Representative**. The District has the right to appoint one representative to the Board of Directors [EC 47604(b)]. The District representative, who is normally a member of the staff of Local District 3 in which New West is located, is a non-voting, ex officio member of the Board. It is the responsibility of the District to fill this position and notify New West of the District's choice.

The election of board members, or changes in the Board's composition, may not violate New West's Corporate Bylaws that state "interested persons" (e.g., employees or other persons compensated by New West, or their relatives) cannot constitute more than 49% of the persons serving on the Board. The employee members of the Board are permitted to participate and vote on all matters except those involving personnel, employment policies, financial matters affecting salaries and benefits, and other issues where there may be a conflict of interest.

The election or appointment of board members is governed by the rules established by the Board of Directors. The Director/Principal is responsible for conducting annual elections of Founder, parent, teacher, and staff board members and their alternates by their respective constituencies. These general elections usually take place in the fall of each year according to the following schedule:

(226) **Even numbered calendar years**: one Founder and one founder alternate representatives, two parents and one parent alternate representatives, one teacher and one teacher alternate representatives, and one alternate staff representative.

(227) **Odd numbered calendar years**: two Founders and one founder alternate representatives, one parent and one parent alternate representatives, two teachers and one teacher alternate representatives, and one staff employee representative.

Elected alternates to the council become full representatives if a regular member resigns at any time during their term, with the longest serving alternate being the first to assume full board membership. If alternates are not available to fill a vacancy, then the Board, at its discretion, may either call for an election or appoint board members and/or alternates

by majority vote. A vacancy in an appointed board position, including alternates, may be filled at any time by majority vote of the Board. New West is responsible for notifying the District in writing of any change in board membership.

Board members may resign by submitting a written notice to the Director/Principal or Chair of the Board, although this written resignation is not required to fill the vacant position in the case of a written resignation made verbally before the Board. The Board confirms each resignation at its next meeting and takes actions immediately to fill the vacant position according to its rules for electing board members. Board members who miss three regular or special meetings in a row without an excuse, or who are absent for one-third or more of board meetings over the course of a school year can be removed from their board position by majority vote of the Board. The Board may remove an individual board member with or without cause for any reason by majority vote.

2. Duties

The Board manages the corporation and has sole authority for all aspects of the school's operation and educational program including, but not limited to, the development and implementation of policies related to curriculum, enrichment and extracurricular educational activities, student evaluation, personnel, professional development, budget and finance, facilities and maintenance, admissions, scheduling, community relations, classroom usage, use of the school site, safety, discipline, proposals for charter revision and renewal, dispute resolution, and interactions with the District and other educational agencies. The Board is governed in its operations and its actions by New West's Corporate Bylaws, which are consistent with the terms of the Charter, the Charter Schools Act, and all other laws applicable to charter schools managed by nonprofit public benefit corporations. The Board appoints and employs the Director/Principal and vests that person with the authority to hire employees, work with volunteers, establish school policies, and take actions as necessary to operate the school in accordance with the Charter.

The Board is responsible for electing the Officers of the Corporation as allowed by the Corporate Bylaws. The corporate officers, who do not have to be members of the Board, are:

(228) President (Executive Officer), who is normally the Director/Principal.

(229) Secretary, who is normally the school's chief administrative assistant.

(230) Chief Financial Officer, who is normally the school's fiscal manager.

(231) Chair of the Board, who is elected by the Board from the founder and parent members of the Board.

These corporate officers normally participate in the meetings and other activities of the Board, but they do not have voting rights unless they are also board members.

The Board operates according to the Corporate Bylaws of New West. In general, the Board conducts its business by consensus but employs Robert's Rules of Order and takes formal votes on issues as the need arises. Only board members or alternates sitting in for an absent board member can vote. The transaction of any business, except adjournment, requires a quorum defined as at least one-half of the sitting voting board members (i.e., excluding the ex officio District representative) who have been appointed or elected at the time of the meeting, including alternates who are filling in for board members absent from a board meeting (e.g., a quorum is 7 if one or none of the 13 voting Board positions are vacant). The Board generally conducts its business related to the school on the basis of published agenda and the board keeps appropriate records of

all its actions. The Board's business is usually conducted in open public session according to Board rules, but the Board reserves the right to meet in closed session to discuss and decide issues of a confidential nature. All teachers, parents, and community members are encouraged to attend board meetings, but members of the public can only speak on issues before the board when recognized by the chair of the meeting. The Board typically allows and encourages open public comment by a limited number of speakers on any issue to be decided in public session. The Board normally meets monthly but may convene more frequently as necessary to conduct its business.

Alternates to the Board replace regular board members who are absent from part or all of a board meeting. An alternate substituting for a board member participates as a full member of the Board in all board business with the following exceptions: revision of the corporate bylaws, election of corporate officers, and nomination, appointment, or election of board members.

Board members, including alternates, and the corporation's officers must excuse themselves from participating in discussions and decisions about matters that may involve actual or potential conflicts of interest (see *General Provisions of the Charter: Section XIV. Conflict of Interest Policy)*. Such conflicts may arise whenever a board member may either receive some advantage or suffer some disadvantage because they have personal, business, or monetary interests in a matter before the Board. Board members either excuse themselves voluntarily or are excused by a majority vote of board members if the Board determines that there is an actual or potential conflict of interest, which may be brought to the attention of the Board of Directors by any person.

3. Strategic Plan

The Board holds an annual retreat to assess the school's operation and educational program, discuss plans for the school's future, and update the school's Strategic Plan. The Strategic Plan, which includes both specific one year and broader five year goals, is distributed widely to the New West community before being presented at a regular board meeting for public discussion and Board approval.

B. Executive Committee

New West's Executive Committee is comprised of the Director/Principal, one teacher elected yearly by and from the teachers who are board members, and the Chair of the Board. If Director/Principal is the board's chair, then the third member of the Executive Committee is elected by the Board from the parent and founder representatives. Vacancies on the Executive Committee are to be filled immediately. The Executive Committee:

(232) Sets the agenda for board meetings.

(233) Deals with routine matters not requiring the attention of the full Board.

(234) Refers issues to the Board as may be appropriate.

The Executive Committee is operational in nature rather than a deliberative, decision-making body. It cannot establish school policy or exercise the authority of the Board with respect to material issues concerning the school's operation nor the terms and conditions of the Charter. The Executive Committee normally meets weekly but may convene more or less frequently as necessary to conduct its business.

C. Advisory Board

New West may have an Advisory Board comprised of four distinguished members of the community representing the public and/or private sectors of education, business, and

government. The purpose of the Advisory Board is to provide advice, expertise, and resources related to charter schools, middle school education, fund raising, community relations, and other areas relevant to the success of the school. The Executive Committee and/or the Board of Directors may consult with the Advisory Board or its members when appropriate. The Board appoints members of the Advisory Board from applications received or solicited by the school. The Advisory Board, which is informed of school activities and issues on a regular basis, meets with the Board as needed but not less than once each school year.

D. School Committees

1. Role of Committees in School Governance

The work of the Board of Directors is accomplished normally through the activities, reports, and recommendations of various standing and ad hoc committees. Issues arising before the Board of Directors may be referred to a committee for consideration and formulation of recommendations and resolutions that are presented in writing to the Board for final approval. All teachers, parents, and community members are encouraged to attend any committee meeting that is of interest to them.

2. Committee Structure

The Director/Principal is primarily responsible for managing and coordinating the activities of the school's various committees if they are established as well as acting as the liaison between the Board and the school's committees. The Director/Principal may delegate responsibilities for managing one or more committees to another administrator, a teacher, a parent, a founder, and/or a community volunteer. The Board may from time to time establish and/or abolish such standing and special committees, as it may desire to report directly to the Board or through the Director/Principal. The school's committees cover the following functions, but may or may not be separate committees:

(235) Admissions and enrollment
(236) Grants
(237) Fund-raising
(238) Curriculum and educational programs
(239) Enrichment and extracurricular activities
(240) Special education and student success
(241) Library
(242) Parent resources
(243) Personnel and hiring
(244) Community relations
(245) Diversity
(246) Dispute resolution

3. Committee Membership

Committees typically have both parent and teacher members as appropriate and necessary with the mutual understanding that teachers are advisory and parents carry the burden of committee work whenever possible and appropriate. Committee membership is also open to part-time or full-time employees of the school as well as founders and community members. Each board member typically serves on at least one committee. The Director/Principal, who is an ex officio member of each committee,

assures that each committee has a chair or co-chairs at all times who staff the committee, organize meetings, and report to the Director/Principal or the Board, as necessary.

E. Parental Involvement

1. Role of Parents in Operating the School

The success of New West is dependent on local school control through shared governance between the educators and the parents who have a vested interest in the school. A meaningful partnership involves the Director/Principal and the teachers being responsive to the concerns of parents about the educational program of the school. In turn, parents have the responsibility to respect the professional experience and expertise of the Director/Principal and the teachers. While parents are involved in all levels of decision-making at New West through their elected representatives and committee work, their primary role in operating the school is to assist, enhance, facilitate, and extend the ability of the educational staff to conduct the school's educational activities. Such parental involvement has the significant advantage of relieving teachers from many of the administrative details of operating the school so that they can devote their time, energy, and expertise to classroom teaching, curriculum, and professional development.

2. Home-School Contract

A central tenet of New West's philosophy is that students are best able to reach their full potential when there is a high level of involvement by their parents in their education. Moreover, research has shown that stakeholder involvement is important to the success of a program and to the satisfaction of the participants. Accordingly, part of the school's educational plan is an agreement between parents and the school — known as the Home-School Contract — whose intent is to encourage parental involvement and cooperation that will, in turn, ensure success of the school's educational program. Such a contract is designed to empower parents with respect to their children's education by strengthening the partnership among parents, students, and teachers.

Another tenet of the school's philosophy is that parents choose to send their children to New West because they have high expectations of the school and the benefits that they and their children will receive. In turn, the school has high expectations of parents to contribute to the team effort needed to fulfill those expectations. Excellence in a charter school cannot be accomplished nor maintained without the active participation of the parents of enrolled students.

A third tenet of the school's philosophy regarding parental involvement is that diversity in the parent population is a great strength that improves the educational program for all. Parents have different philosophies and approaches to their involvement in their children's education outside of school. Likewise, parents contribute in many different ways to the collective responsibility of running a charter school and making its educational programs a success. Recognizing that each parent, like each child, is unique in terms of background, experience, and ability, parents are asked to contribute to the school's success by volunteering their skills, time, and resources to the extent that they are able above the minimum requirements of the Home-School Contract.

The Home-School Contract, which is signed as a condition of enrollment before the beginning of each year, or whenever a new student is enrolled, includes the following requirements of the parents who have children attending New West:

(247) Volunteer at least 8 hours per school semester per family (16 hours/year) during school hours, weekends, or evenings to participate in a school project, event, or classroom activity in addition to the other requirements of the Home-School Contract.

(248) Read the Charter to understand the educational plan of the school, the school's operation, and the roles, rights, and responsibilities of parents and their children.

(249) Participate in car pool/transportation program to reduce pollution and traffic congestion and follow the rules for drop-off and pick-up of children.

(250) Attend a mandatory orientation meeting to learn about charter schools, the school's educational program, the Home-School Contract, and ways in which parents can contribute to the success of both their child and the school.

(251) Participate in the election of parent representatives to the Board of Directors.

(252) Complete and return all required forms, questionnaires, and other requests for information.

(253) Ensure the completion of homework and class projects.

(254) Reinforce at home the importance of education on a daily basis and discuss with each child what was taught at school.

(255) Assure that each child arrives at school on time, dressed appropriately, and ready to learn.

(256) Understand and reinforce the Student Conduct Code and the Student Dress Code.

(257) Attend all scheduled parent-teacher conferences each year for each child.

(258) Attend back-to-school night, open houses, and other school-wide events.

(259) Keep informed about the school by reading the school's newsletter or information provided on the website.

(260) Attend at least two parent education seminars each year concerning the school's curriculum, child development, parenting skills, and other topics relevant to the education of their children.

(261) Participate as a family in extracurricular school events such as book fairs, plays, talent shows, festivals, and fund-raising activities.

(262) Exercise respect for other members of the New West community, including administrators, teachers, staff, community volunteers, parents, and students.

(263) Use the school's dispute resolution process to settle complaints, conflicts, and disputes that may involve New West and/or members of the school's community, including administrators, teachers, staff, community volunteers, parents, and students.

(264) Reimburse the school for school property that is lost or damaged by their children.

(265) Self-report their compliance with the Home-School Contract using the forms provided by the school.

Agreement to the contract by parents is one of the terms of admission and enrollment each year for students who want to attend New West. Information about the

Home-School Contract is available to the parents of prospective students as part of the admission application packet so that students and parents can make informed judgments whether they can fulfill the terms of the agreement. Parents must return the signed contract with the child's enrollment (new students) or re-enrollment (continuing students) forms.

Parents and students are responsible for fulfilling their responsibilities to the school as described in the Home-School Contract. Non-compliance may result in a student losing his or her enrollment at New West. The Director/Principal, in consultation with the Board of Directors, is responsible for administering and enforcing the Home-School Contract, counseling parents who may be substantially non-compliant, and considering exceptions in the form of reduced requirements for parents whose particular circumstances may include transportation difficulties, single-parent households, financial hardship, physical disability, employment, or other special situations. Policies regarding non-compliance with and exceptions to the Home-School Contract are applied to all parents in an equal and consistent manner that is nondiscriminatory, provides due process protections, and preserves the privacy and confidentiality rights of students and parents. Disputes involving the Home-School Contract are resolved through the school's dispute resolution process.

V. Element E: Employees

All persons working at the school are employees of New West, which operates as a nonprofit public benefit corporation (see *General Provisions of the Charter: Section VII. Legal Status of the School*). New West's Board of Directors, in consultation with the Director/Principal and/or the school's committee dealing with personnel issues, has sole authority for making all decisions about the employment of all persons working at the school. These responsibilities include establishing job descriptions, qualifications, and selection procedures, determining the terms and conditions of employment including salary and benefits, interviewing and hiring personnel, determining job assignments, and evaluating, promoting, and terminating the school's employees.

New West personnel can be employees of the District or other school district or educational agency, provided that any persons working in this dual capacity receive New West's consent prior to accepting the second position or they are school district personnel who elect to take a charter school leave if allowed by their collective bargaining agreements and/or district personnel policies (see *Required Elements of the Charter: Section XIII. Element M: Leave of Absence to Work at a Charter School*). It is the responsibility of the employee to make sure that they comply with the policies of their union and/or school district regarding leave-of-absence to work at New West on a part-time or full-time basis. New West personnel are not covered by any collective bargaining agreements between the District and its employee unions, although New West employees have the right to join or form employee organizations (see *Required Elements of the Charter: Section XIII. Element O: Employee Collective Bargaining Rights*). The LAUSD, or any other school district, cannot require its employees to work at New West [EC 47605(e)]. New West employees must be U.S. citizens or have an immigration status that allows them to work in the United States in the position for which they are employed by the school.

All new employees of the school and all employees of any entity that has a contract with New West who have contact with the school's students are subject to a criminal background check including the submission of fingerprints for the purpose of obtaining a criminal record summary as described in Section 44237 of the Education Code [EC 47605(b)(5)(F) & 45125.1(a)]. The person being investigated pays the costs of fees and processing charges related to the criminal background check and fingerprinting. The Director/Principal is responsible for ensuring that the providers used by the school to do the criminal background check and fingerprinting meet the

standards of the California Department of Justice. No person who has been convicted of a violent or serious felony is hired by New West or employed by any entity on a contract basis to work at the school site [EC 44830.1(a), 45122.1(a), & Sections 45125.1].

A. Director/Principal

The Director/Principal is the chief academic and financial officer responsible for both day-to-day and long-term operation of the school. The broadly defined duties of the Director/Principal include but are not limited to the following:

(266) Implement the Charter and its philosophies and practices.

(267) Participate in the governance of the school.

(268) Oversee the school's curriculum and academic policies.

(269) Prepare and manage the school's budget.

(270) Supervise the preparation of the annual Financial Audit and Programmatic Performance Report.

(271) Represent the school in fund-raising efforts including grant applications and solicitations for support from private and public entities.

(272) Interact with the District, local private and public schools, charter school organizations, and the community on matters related to the school's operation and educational program.

(273) Serve as an ombudsperson to investigate, mediate, or otherwise resolve complaints and problems that may arise between students, teachers, staff, parents, and community members.

(274) Evaluate the job performance of all school employees on a yearly basis.

(275) Communicate with all stakeholders on a regular basis.

(276) Manage the school on a daily basis.

1. Qualifications

New West's Board determines the qualifications of the Director/Principal based on the school's needs at the time it is necessary to fill the position. In general, the Director/Principal is expected to have the following abilities, experiences, and attitudes:

(277) Bachelor of Arts, Bachelor of Science, or equivalent degree.

(278) Obtained or working toward an advanced graduate degree.

(279) A visionary who is on the cutting edge of educational reform.

(280) Creative and innovative in his/her approach to education.

(281) Fluent with current educational theory and curriculum development.

(282) Knowledgeable about and supportive of charter schools.

(283) Demonstrated leadership and decision-making skills.

(284) Demonstrated managerial skills to include goal setting, budget control, team building, and corrective action.

(285) Demonstrated ability to collaborate with parents, students, staff, and the community.

(286) Demonstrated teacher advocacy skills.

(287) Demonstrated accountability and communication skills.

(288) Ability to demonstrate skills in utilizing "broad vision."

(289) Demonstrated ability to work with special education, low achieving, and gifted/talented students.

(290) Specific abilities to fulfill the Director/Principal duties described above.

(291) An administrative services credential is preferred but not required.

2. Selection

New West's Board of Directors determines the selection process for hiring a new Director/Principal . The Board may take into consideration the established policies and procedures of the District for selecting principals but is not bound by them.

3. Evaluation

The Board conducts written performance evaluations of the Director/Principal on an annual basis. Part of the evaluation is based on progress toward meeting specific goals established each year for the Director/Principal by the Board. The Board provides opportunities for comments from parents, teachers, staff, and community members as part of its information gathering process.

B. Teachers

Teachers are primarily responsible for developing, planning, and implementing the school's educational program in the classroom. In addition to their classroom instructional role, the broadly defined duties of the teachers includes but is not limited to the following:

(292) Understand the Charter and its philosophies and practices.

(293) Participate in the governance of the school.

(294) Involve them individually and collaboratively in professional development activities that advance their skills, knowledge, and attitudes in the best interests of themselves, their students, and the school.

(295) Work with the school's varied stakeholders in support of the home-school-community continuum of educational culture that the school holds as one of its central tenets.

(296) Participate in the school's fund-raising activities including grant applications and solicitations for support from private and public entities.

(297) Serve as the advocate of their students in promoting a learning environment that allows each student to fulfill their potential in terms of academic achievement and social development.

1. Qualifications

New West teachers primarily responsible for classroom instruction in the core academic areas of reading and language arts, mathematics, science, and history and social science must hold a Commission on Teacher Credentialing Certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold by state law [EC 47605(l)] and must meet federal requirements regarding highly qualified teachers pursuant to the provisions of the No Child Left Behind legislation. Prospective employees provide these documents at the time they apply for work at New West, and the documents are confirmed for validity by the Director/Principal before a teacher is hired and annually as long as the teacher is employed at the school. The credentials of teachers are on file at the school and can be inspected by the District at any time. New West provides the District with copies of credentials whenever a new teacher is hired or there is a change in the credentials of a currently employed teacher (e.g., a teacher changes from emergency to full certification).

New West has flexibility with regard to qualifications and credentialing for full-time, part-time, and occasional instructors in non-core elective, enrichment, and extracurricular classes. In general, New West expects its core and non-core teachers to have the following abilities, experiences, and attitudes:

(298) Bachelor of Arts, Bachelor of Science, or equivalent degree.

(299) Demonstrated excellence as a teacher including knowledge of the subject matter they teach.

(300) Creative and innovative in his/her approach to education.

(301) Fluent with current educational theory and curriculum development.

(302) Knowledgeable about and supportive of charter schools.

(303) Ability to work collaboratively with other educators in interdisciplinary units.

(304) Desire to work with parents and community members to strengthen the home-school-community union to envelop students with a continuum of educational culture.

(305) Willingness to be responsible and accountable for the performance of their students.

(306) Ability to present materials in ways that attract and hold students' attention.

(307) Understanding of different student learning styles and how to adapt their teaching styles to them.

(308) Ability to assess student growth in a variety of ways (e.g., standardized tests, classroom exams, presentations, projects, and portfolios).

(309) Ethical and compassionate behavior with respect to their interactions with students especially but also parents, other educators, and community members.

(310) Demonstrated ability to work with special education, low achieving, and gifted/talented students.

(311) Specific abilities to fulfill the teacher duties described above.

2. Selection

The Director/Principal selects an ad hoc committee of teachers and parents with which to work when interviewing, evaluating, and selecting each new teacher to be employed at New West.

3. Evaluation

The Director/Principal evaluates teachers annually. The results of the annual review are shared with the committee dealing with personnel matters and summarized for the Board of Directors. New West's written teacher assessment tools incorporate some of the California Standards for the Teaching Profession (California Commission on Teacher Credentialing, 1997). The annual review includes a set of Professional Standards, including the expectation that teachers support and implement the goals and objectives of the Charter. Other parts of the teacher assessment tool include self-evaluation, peer-evaluation, and comments from parents, staff, and community members. Teachers are working towards a Professional Growth File that documents all evidence of professional growth and excellence including in-service classes, courses, conferences, committee work, peer coaching, curriculum development, and student progress.

C. Non-Credentialed Instructional Staff

The Director/Principal, in collaboration with the committee dealing with personnel issues, is responsible for supervising the non-credentialed instructional staff needed to carry out the school's educational program. The non-credentialed instructional staff includes, but is not limited to the following positions: teaching aides; art and music instructors; world language instructors; physical education and health instructors; remedial, gifted, and talented instructional specialists that work under the supervision of credentialed teachers; instructors for enrichment, extracurricular, and community service activities; and Scholars-in-Residence. Some of these non-credentialed staff members normally hold part-time or full-time paid positions, others are retained on a contract basis, and others are volunteers, depending on the needs and resources of the school.

New West has the flexibility intended by the Legislature with respect to the qualifications and experience of its non-credentialed staff involved in non-core, non-college preparatory instruction at the school [EC 47605(l)]. Wherever possible, depending on the fiscal resources and needs of the school, New West fills these positions with credentialed teachers on a part-time or full-time basis. When this is not possible, members of the non-credentialed instructional staff are expected to have an undergraduate degree, be working toward their degree, or have at least five years of experience in an area of expertise related to the their position. New West develops, as needed, the job descriptions, job qualifications, selection processes, and evaluation tools appropriate for the different kinds and levels of non-credentialed instructional staff that are used to supplement the school's core academic program taught by the school's full-time credentialed teachers. Non-credentialed staff assist credentialed teachers but they are not assigned primary responsibility for teaching core academic subjects nor do they count when calculating class size and student:teacher ratios.

D. Non-instructional Staff

The Director/Principal is responsible for supervising the non-instructional staff needed by the school to staff its operations (e.g., administrative assistants, secretaries, custodial staff, and food services workers). New West develops, as needed, the job descriptions, job qualifications, selection processes, and evaluation tools appropriate for the different kinds and levels of non-instructional staff employed at the school. Minimum requirements for office and clerical staff include, but are not limited to, computer skills (including working knowledge of word processing, spreadsheets, data base programs, accounting software, and internet communication management), written and verbal communication skills, and filing and organizational abilities. The Director/Principal is responsible for a yearly written evaluation assessing the performance of non-instructional staff members.

E. Personnel Policies

New West's personnel policies include an employee handbook and written employment contracts, although entering into such a contract with any individual employee is at New West's discretion. Changes to the school's personnel policies require approval by the Board of Directors.

New West is competitive with local public and private schools in terms of salary schedules, work schedules, health benefits, retirement benefits, vacation, sick leave, absences with replacement pay, and opportunities for on-job training and professional development. Generally, New West anticipates that administrators and instructional staff have employment contracts while non-instructional staff are at-will employees. New West personnel policies and procedures include, but are not necessarily limited to, the following elements:

(312) **Job descriptions:** qualifications including abilities, experiences, and attitudes; education levels and credentials/licenses; broadly defined duties and responsibilities; professional development requirements; agreement to work to fulfill the principles and practices of the Charter; participate in school governance, including election to the Board of Directors and serving on school committees, as an integral part of employment.

(313) **Hiring:** recruiting; interviewing; job offers and acceptances; soliciting references; verification of degrees, credentials, licensure, and previous employment; criminal background checks; initiating employment; and orientation of new employees.

(314) **Employment status:** exempt (salaried) versus non-exempt (hourly) employment; contract versus at-will employment; full-time versus part-time employment; employees versus independent contractors; tenure, notice periods, and procedural protections; eligibility for benefits; outside employment; rights of parent and community volunteers; right to unionize (see *Required Elements of the Charter. Section XIII. Element O: Employee Collective Bargaining Rights*).

(315) **Compensation:** salary and hourly pay schedules; overtime work and compensatory leave time; incentives and bonuses; supplemental compensation for special duties.

(316) **Time and attendance:** work day, work week, and work year; break and lunch periods; pay periods; time sheets; unauthorized lateness and attendance.

(317) **Insurance benefits:** health and dental insurance; life insurance; accidental death and dismemberment insurance; short-term and long-term disability benefits; workers compensation insurance; unemployment compensation; coordination of benefits.

(318) **Retirement benefits:** see *Required Elements of the Charter. Section XIII. Element K: Staff Retirement Benefits*.

(319) **Holidays:** national, religious, and personal holidays; eligibility, scheduling, and accrual of vacation days.

(320) **Personal leave:** eligibility, amount, duration, return to work, and accrual; integration with disability policy.

(321) **Leave of absence:** eligibility, terms, and durations related to personal, bereavement, family medical (illness, pregnancy, care of a family member), educational, military, and jury duty leaves; unauthorized absences.

(322) **Health and safety issues:** smoke-free, alcohol-free, drug-free policy; immunizations, vaccinations, and health testing (e.g., tuberculosis); blood-born pathogens; child neglect and abuse reporting; first-aide and emergency response training.

(323) **Employee Conduct:** interactions with students, parents, and staff members; dress and appearance; punctuality.

(324) **Performance evaluation:** frequency, format, and standards of evaluations; observation of performance; employee participation; persons responsible for evaluations of different employees.

(325) **Professional development**: professional development portfolios; participation, expectations, and requirements; reimbursement and time-off.

(326) **Non-harassment:** prohibiting, reporting, investigating, and remediating verbal, physical, and sexual harassment of employees, students, and parents.

(327) **Non-discrimination:** see *General Provisions of the Charter. Section XVI. Equal Rights Statement.*

(328) **State and federal workplace law:** employees protected by state and federal laws and regulations regarding civil rights (e.g., age discrimination, disability, and equal pay

legislation) and workplace practices (fair labor standards, family and medical leave, extended insurance coverage, retirement benefits, and occupational safety and health standards).

(329) **Reimbursements:** travel (transportation, lodging, meals); school use of personal automobiles; telephone expenses; school supplies; other professional expenses; school credit cards.

(330) **Conflict of interest:** see *General Provisions of the Charter: Section XIV. Conflict of Interest Policy*.

(331) **Employment records:** contents of personnel files; access to, use of, and release of personnel information; privacy and confidentiality.

(332) **Grievance procedures:** see *Required Elements of the Charter: Section XIV.B. Disputes Arising within the School*.

(333) **Collective bargaining rights:** see *Required Elements of the Charter. Section XIII. Element O: Employee Collective Bargaining Rights.*

(334) **Discipline:** grounds for discipline; progressive discipline policy including demotion and termination; relationship to performance evaluation; appeal and due process rights.

(335) **Termination of employment:** voluntary resignation; retirement; death; involuntary termination including non-renewal of contract, termination of at-will employment, elimination of position, or immediate discharge for cause; exit interview; return of school property; employment references.

(336) **Receipt of personnel manual:** agreement that the employee handbook is not a contract and that New West retains the unilateral right to modify, clarify, supplement, or eliminate any portion of the employee handbook.

VI. Element F: Health and Safety

The Director/Principal, working in collaboration with a health and safety committee, formulates and enforces the health, safety, and risk management policies, procedures, and practices of New West. New West engages appropriate inspectors, consultants, contractors, or other professionals from public agencies or private companies when their expertise is required to inspect, evaluate, and/or correct health and safety conditions at the school. The practices and procedures followed by the school include, but are not limited to, the following requirements:

- All students, school employees, and volunteers who help at the school and have contact with students are required to provide records documenting those immunizations required by law including tuberculosis testing.
- All school employees and volunteers who are alone with students at any time are required to have a criminal background check and furnish a criminal record summary as described under *Required Elements of the Charter. Section XIII. Element E: Staff Employment.* The employee or volunteer is responsible for the cost of such check.
- The administrative and instructional employees of the school are instructed on a regular basis of their duty as mandated child neglect and abuse reporters.[15]
- Regular school-wide drills are used to practice the school's plans for response to natural disasters and emergencies, including fires and earthquakes.
- All administrative, instructional, and staff employees are trained in emergency response, including appropriate "first responder" training or its equivalent.

[15]. See The California Child Abuse & Neglect Reporting Law: Issues and Answers for Mandated Reporters, Office of Child Abuse Prevention, California Department of Social Services.

- The school, under the direction of the Director/Principal, maintains a regular program for inspecting the school's building and grounds to identify and correct safety and health hazards including those related to auxiliary services such as food services, custodial services, maintenance, landscaping, and hazardous materials.
- The school's buildings and other facilities are inspected on a regular basis by the Fire Marshal.
- The school's buildings and other facilities are certified to be free of substantial seismic and toxic hazards.
- The school follows best-practice, effective, least toxic, pest management practices to ensure the health of the school's students, employees, and visitors (see Healthy Schools Act of 2000 [EC 17608]).
- The school's buildings and other facilities meet the requirements of the Americans with Disabilities Act.
- The school's buildings and other facilities comply with state and federal workplace health and safety standards.
- The school complies with the Asbestos Hazard Emergency Response Act (AHERA) regarding asbestos-containing materials at the school site.
- The school's playground and athletic facilities meet local, state, and federal safety codes.
- The school cannot occupy or use any part of its school site that does not have a Certificate of Occupancy issued by the City of Los Angeles, a copy of which is provided to the District.
- The school has an acceptable use policy that complies with the Children's Internet Protection Act and requires responsible use of computers for educational purposes and filtering software to protect students from inappropriate, offensive computer accessible information from the internet or elsewhere.
- The school's campus is a drug, alcohol, and tobacco free environment.
- The school has a traffic policy that ensures the safety of students arriving at and leaving the school.
- The Director/Principal designates the person(s) responsible for administering prescription drugs and other medicines to students based on written consent of the parents and written instructions from a physician.
- The school has a zero tolerance policy with respect to violence and the possession of firearms or other weapons on campus by students, employees, parents, or visitors.

Upon request from the District, New West provides copies of its health, safety, and risk management policies as well as reports related to inspecting, evaluating, and/or correcting health and safety conditions at the school. The District is notified if New West is cited by any agency (e.g., Cal OSHA or the Fire Marshal) for failure to comply with health and safety regulations applicable to charter schools.

VII. Element G: Racial and Ethnic Balance

New West has integrated, multiethnic student body that provide a rich and diverse multicultural educational environment that encourages students to reach their full academic potential regardless of race, color, ethnicity, or national origin. New West's makes diligent efforts to recruit students of various racial and ethnic groups so as to achieve a balance that is reflective of the general population residing within the territorial jurisdiction of the school district. New West's objective is to achieve and maintain the district's ethnic balance goal of a student body whose

"other white":"non-white" ratio is between 70:30 and 30:70 (i.e., minority students are 30-70% of the student body).

New West maintains an accurate accounting of diversity within its student body as well as documentation of its recruitment efforts. The following approaches are used, as may be required, to achieve racial and ethnic balance:

- Maintain a racial and ethnic diversity committee of parents, educators, and community members to oversee New West's efforts in recruiting a wide diversity of students and ensuring a supportive environment for students of all backgrounds while attending the school.
- Follow an application, admissions, and enrollment policy that incorporates a timeline allowing for a broad-based recruiting effort (admission is by lottery if applications exceed the available space).
- Distribute informational materials about New West to a broad variety of community groups and agencies that serve the various racial and ethnic groups represented in the anticipated attendance area of the school.
- Request principals of elementary schools across the Westside of Los Angeles to send home to parents of fifth grade students information provided by New West about its programs and admissions.
- Conduct an outreach program of informational meetings, coordinated with New West open houses at the school, at public elementary schools to inform parents of the educational opportunities available at New West.
- Provide informational materials, recruitment brochures, and applications in English and Spanish, and arrange for Spanish speaking translators to be present at school meetings.
- Establish formal, ongoing, long-term "little sister" relationships with nearby public elementary schools whose over-crowded student bodies are comprised of primarily minority or socioeconomically disadvantage students.
- Solicit additional public and private funding to provide transportation and other support services that may facilitate interested graduates of these "little sister" schools in continuing their education at New West.
- Discuss with the District the possibility of participating in the district's Capacity Adjustment Program (CAP) if New West is at less than full capacity. The assignment of CAP students to New West would be governed by a separate "CAP Student Memorandum of Understanding" mutually agreed to by New West and the District.

These efforts to enhance the racial and ethnic diversity of the school's student body comply fully with all laws that prohibit discrimination against individuals or groups of individuals (see *General Provisions of the Charter. Section XVI. Equal Rights Statement*).

VIII.Element H: Application, Admission, and Enrollment Procedures

The Board of Directors determines the policies, processes, and procedures governing application, admission, enrollment (new students), and re-enrollment (continuing students) at New West. The policies conform to the following requirements:

- New West admits all students who wish to attend the school provided that the school's capacity at each grade level is not exceeded [EC 47605(d)(2)(A)].
- If the number of students seeking admission is greater than the school's capacity, then admission is determined by a public random drawing [EC 47605(d)(2)(B)].

- New West is open to all students without regard to where they live in California, which school district they live in, or which school they currently attend [EC 47605(d)(1)].
- New West is nonsectarian in its application, admission, and enrollment policies and does not discriminate against any student on the basis of ethnicity, national origin, gender, or disability [EC 47605(d)(1)].
- New West does not charge an application fee or tuition nor require or solicit any monetary contribution, pledge, or promise as a condition for application, admission, enrollment, or participation in any of the school's regular educational activities [EC 47605(d)(1)].
- The District cannot require any student to attend New West [EC 47605(f)].
- New West complies with federal law regarding homeless children and youth enrolling, attending, and succeeding in school.[16]

A. Application

Application is the process by which prospective students notify New West of their interest in attending the school. Applicants complete and submit the school's application by the application deadline (the school does not accept incomplete applications). Applications are usually available in December with a March deadline for admission the next school year. This deadline is usually coordinated with local public and private schools to give students and their parents an opportunity to consider the full range of educational opportunities available to them. Late applications are accepted at any time, but the applicant loses any admission preference for which they might otherwise have qualified.

The application packet for admission to New West includes information that allows students and parents to assess the school's operation as a charter school, its educational programs, the academic and behavioral expectations of students, and the rights and responsibilities of students and parents who wish to become part of the New West family. The application packet typically includes:

(337) New West's *Mission Statement*, an overview of the school's educational philosophy, and a summary of the academic goals and expectations of the school and its students.

(338) Information about New West's Director/Principal, the school's instructional staff, and members of the Board of Directors.

(339) A description of New West's educational program including a school calendar, daily schedule, core curriculum, enrichment and extracurricular programs, attendance expectations, grading policy, testing and evaluation procedures, promotion and retention policy, and graduation standards (exit outcomes).

(340) An overview of the school's academic performance (e.g., recent CST and API results).

(341) A description of New West's shared governance structure and how the school encourages parental involvement.

(342) Information about the Home-School Contract with a prominent statement that exceptions to the provisions of the contract may be allowed on a case-by-case basis in the form of reduced requirements for parents whose particular circumstances may include transportation difficulties, single-parent households, financial hardship, physical disability, employment, or other special situations.

[16]. See Education for Homeless Children and Youth Program. Title VII-B of the McKinney-Vento Homeless Assistance Act, as Amended by the No Child Left Behind Act of 2001. Non-Regulatory Guidance, U.S. Department of Education, July 2004.

(343) Description of the application, admission, and enrollment process including application deadlines, admission and enrollment preferences (see section B.1.), admission lottery and admission priority, conditions of enrollment, and consequences of misrepresenting admission and enrollment information.

(344) The rights and responsibilities of students, parents, and teachers.

(345) A prominent statement that New West operates under oversight of the District but, as a charter school, is exempt from most laws and regulations governing public schools.

(346) A prominent statement that the school district in which a student resides has the responsibility for the public education of a student who voluntarily withdraws or is expelled from New West.

(347) A brief description of what charter schools are and how they differ from regular public schools.

B. Admission

Admission is the process by which applicants are admitted to New West. All students who complete the application process are admitted. However, if there are more applicants than available spaces, then admission is determined by a public random drawing with consideration given for the admission preferences given below.

1. Admission Preferences

The following order of preferences applies to students who are continuing enrollment or applicants who are seeking admission to New West (listed in declining order of priority):

(348) **Continuing students**. These are presently enrolled students who plan to continue attending New West the next school year. To maintain eligibility for this preference, parents must: (1) have their child enrolled at New West on the last day of the school year (i.e., their child has not been withdrawn or expelled); (2) comply with the terms of the Home-School Contract (including completion of volunteer hours); (3) certify in writing during the spring of each year that they are meaningfully interested in having their child continue attending New West; and (4) return re-enrollment forms by the announced deadlines. New West is responsible each year for notifying parents of enrolled 6th and 7th grade students of these requirements and providing reasonable time to correct any deficiencies.

(349) **Founder preference**. This preference is available to applicants whose parents are Founders of the school[17]. The conditions for attaining Founder status and the maximum number of Founders' children enrolled at any time are specified in *General Provisions of the Charter: Section IX. School Founders*.

(350) **Sibling preference**. This preference is available to applicants whose brother(s) or sister(s) are: (1) continuing their enrollment at New West, (2) graduated from New West, or (3) applying at the same time and already granted admission through the lottery (e.g., twins applying to the same grade or brother and sister applying to different grades). To maintain eligibility for this preference, parents must comply with the terms of the Home-School Contract (including completion of volunteer hours).

[17]. The U.S. Department of Education declares that admission preference can be given to "children of a charter school's founders (so long as the total number of students allowed under this exemption constitutes only a small percentage of the school's total enrollment" (see Non-Regulatory Guidance. Title V, Part B. Public Charter Schools, Office of Elementary and Secondary Education, U.S. Department of Education, July 2004, p. 12).

(351) **SB 740 preference**. This preference is available to applicants who attend or live in the attendance area of Richland Elementary School provided that New West receives funds through the SB 740 Charter School Facility Grant Program [EC 47614.5(c)(2)(A)][18].

(352) **LAUSD preference**. This preference is available to applicants who reside anywhere within the geographic boundaries of the District [EC 47605(d)(2)(B)].

(353) **New Applicants**. This category includes all other applicants who wish to attend the school (i.e., applicants residing in other school districts throughout California).

2. Admission Lottery and Admission Priority List

If the number of students who wish to attend New West exceeds the school's capacity, then the admission of new students is determined solely by a separate, public, random drawing for each grade level with consideration given for the admission preferences listed in the previous section [EC 47605(d)(2)(B)]. The lottery is held at the school on the day announced in the application materials (attendance is not required).

All applicants who complete the school's application by the application deadline are included in the lottery. Each applicant receives an admission priority based on the order in which applicants to each grade level in each admission preference category are selected in the admission lottery. The order of admission of students at any time before or during the school year is based solely on the order of applicants on the admission priority list.

3. Wait List and Late Applications

Applicants not admitted immediately through the lottery are placed on a wait list in the same order they are selected in the lottery. Students on the wait list are notified immediately when space becomes available and have about two weeks to complete and return the enrollment forms to guarantee a place at New West.

Late applications are accepted at any time but the applicant loses any admission preference for which they might otherwise qualify. Students who complete their application after the application deadline do not participate in the lottery. Their names are added to the end of the admission priority list on a first-come first-served basis according to the date the complete application is received by the school office. If space still exists at any grade level after the admission priority list has been exhausted, then admission is open on a first-come first-served basis to any applicant who submits a complete application.

4. Public School Choice Program

The District provides public school attendance alternatives to students attending identified low-performing schools as required under the public school choice provisions of the federal NCLB Act of 2001.[19] New West, as a high-achieving charter school, participates in the District's Public School Choice Program (PSCP) by accepting transfer students from identified low-performing schools on a space available basis. The District first notifies the school of its intent to name New West as a PSCP school before informing parents that New West is available as one of the public school alternatives offered to eligible PSCP students.

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[18]. New West is eligible for these funds because it is located in the attendance area of Richland Elementary School, which has more then 70% of its students eligible for free or reduced price meals.

[19]. See Public School Choice. Non-Regulatory Guidance, U.S. Department of Education, Draft -- February 6, 2004.

Such students and their parents must, however, follow the same application, admission, and enrollment procedures as any other student applying for admission to New West, including the Home-School Contract. If space is available when the school receives the complete application, then a PSCP student receives preference for admission over other students of the same grade level who complete their application on the same day. The District is solely responsible for providing transportation for PSCP students as required by NCLB. New West provides continued enrollment of admitted PSCP students through 8th grade subject to the provisions of NCLB and the policies of the District regarding PSCP students.

C. Enrollment and Re-enrollment

Enrollment and re-enrollment are the processes by which the parents of admitted applicants and continuing students, respectively, complete the required school forms and attend mandatory meetings relevant to their child attending New West for the next school year. Enrollment packages are sent to the parents of applicants usually immediately after they are admitted to New West with a deadline for return 2-3 weeks later. Re-enrollment packages are sent to parents of continuing students usually in the last weeks of school for return 2-3 weeks later. The packages ask parents to furnish or complete the following (not all are required of returning students):

(354) Biographical information about child, family, and previous schools.

(355) Affirmations that require parent signatures to indicate they are aware of school policies and programs.

(356) Birth certificate.

(357) Request for transfer of school records to obtain the student's records from the last school attended.

(358) Emergency medical information and release.

(359) Health records documenting immunizations required by law including tuberculosis testing.

(360) Home language questionnaire.

(361) Special education questionnaire.

(362) Free and reduced-price lunch program questionnaire.

(363) Family Educational Rights and Privacy Act (FERPA) notification and permission to release directory information.

(364) School records and test results indicating the admitted student graduated from grade 5, 6, or 7 (depending on the grade level at which the student enters New West).

(365) Self-nomination form to run for election as the parent representative to the school's Board of Directors.

(366) Carpool information.

(367) Home-School Contract signed by the parents and child.

(368) Volunteer survey form.

(369) Elective choices for fall semester.

(370) After school program survey.

The packages also include information about the new school year such as a school calendar, teacher assignments, class schedules, required books and supplies, and announcements about extracurricular and enrichment activities.

New and returning students and their parents may be required to attend mandatory meetings at school in preparation for the new school year. These meetings may include:

(371) Assessment testing before the beginning of school to assess academic abilities and progress.

(372) Special education consultations and, if possible, IEP meetings to address any problems that may interfere with the student's success in school.

(373) Meet the teacher events for students and parents to hear from the teachers responsible for the core subjects and electives about the upcoming school year.

(374) Orientation events that introduce incoming students to their new classmates, their new school, and its educational program.

Failure to fulfill an enrollment obligation indicates parents are no longer interested in having their child attend New West. If parents and/or their children miss required meetings or parents fail to complete or return enrollment/re-enrollment forms by the announced deadline, then their children's place at New West is offered to the next applicant on the admission priority waiting list. New West makes a reasonable effort to contact the families of applicants and continuing students to be sure that they are no longer interested in attending New West. If parents have some problem attending a meeting or returning the enrollment package, then it is their responsibility to contact the school to arrange an extension of time for completing their responsibilities.

D. Misrepresentation of Information

New West requires the immediate withdrawal from school of any student whose parents misrepresent their legal status as guardians, their place of residence, or any other material information on any school document, including but not limited to application and enrollment forms, when such misrepresentations, whether intentional or not, provide some unfair advantage in gaining admission to New West.

IX. Element I: Annual Audits and Reports

New West drafts several annual reports as part of the schools accountability responsibilities for the school's operation and educational program. The reports are available to New West's stakeholders, to the District, and to the public at large. The Financial Audit and the School Accountability Report Card discussed in the following two sections collectively serve as the Annual Report to the Board of Directors required by the Corporate Bylaws.

A. Financial Audit

New West's financial/business manager engages an independent public accountant, certified by the State of California, to audit the school's financial statements on an annual basis in accordance with generally accepted auditing standards and the audit guide issued by the Controller of the State of California. The auditor prepares a report, in a format acceptable to the District that includes: actual and revised budget figures; projected revenues, expenditures, and fund balances; audited financial statements consistent with Standardized Account Code Structure; and a review of the school's internal controls. To the extent required under applicable federal law, the audit scope includes items and processes specified in any applicable Office of Management and Budget Circulars. The audit also verifies the accuracy of the school's attendance and enrollment accounting practices. The school's financial/business manager reviews any audit exceptions or deficiencies and reports to the Board of Directors with recommendations on how to resolve them.

New West provides a copy of its independent financial audit to the District, the State Controller, the Superintendent of the Los Angeles County Office of Education, and the Charter Schools Division of the California Department of Education by December 15 of each year. The school also reports to the District how audit exceptions and deficiencies have

been or will be resolved by the school to the satisfaction of the District according to an agreed-upon timeline. The District reports back to the school in writing on a timely basis any concerns it may have about the school's financial audit or the school's remediation efforts to correct audit exceptions and deficiencies, which must be resolved to the satisfaction of the District.

B. School Accountability Report Card

New West prepares each year a School Accountability Report Card (SARC) as required by state and federal law. The purpose of the SARC is to inform the parents of enrolled students, parents of prospective students, teachers, staff, and the community at large about conditions and progress at the school. New West uses the model SARC template developed by the California Department of Education. The SARC template contains the following kinds of information:

(375) Descriptive information about the school and its curriculum.

(376) Mission statement.

(377) Opportunities for parental involvement.

(378) Demographics of the student body.

(379) School safety and climate for learning, including suspensions and expulsions.

(380) California Standards Test (CST) results, including comparisons by subgroups to district and state results.

(381) California Achievement Test (CAT-6) results, including comparisons by subgroups to district and state results.

(382) California Physical Fitness Test results for 7th grade compared to district and state results.

(383) Academic Performance Index (API) results and growth targets, including comparisons by subgroups to similar schools, district, state results.

(384) Summary of participation in federal intervention programs

(385) Adequate Yearly Progress (AYP) results, including comparisons by subgroups to district and state results.

(386) Class size statistics.

(387) Teacher and staff information, including credentials, education level, teacher evaluations, substitute teachers, counselors, and other support staff.

(388) Curriculum and instruction, including leadership, school instruction, professional development, textbooks, instructional minutes, and numbers of minimum days.

(389) Fiscal and expenditure data, including average salaries, total expenditures per student, and types of services funded.

The Director/Principal serves as or appoints a SARC coordinator to manage the preparation and dissemination of the SARC. New West makes the SARC available on its website as well as distributing it to parents of current and prospective students.

X. Element J: Student Discipline Policy including Suspension or Expulsion

New West's student discipline policy, as described below, relates to the school's expectations of its students regarding attendance, school behavior, dress, mutual respect, substance abuse, violence, safety, and work habits. Students and their parents are required to verify that they have reviewed and understood the policy at the beginning of each school year.

New West's discipline policy involves both zero tolerance offenses and progressive disciplinary consequences including, but not limited to, verbal warnings, written warnings, loss of privileges, isolation in a supervised area, detention during or after school, notices to parents by telephone or letter, parent conferences, suspension, expulsion, and required withdrawal from the school. The discipline policy applies to student misconduct related to school activities regardless of when the misconduct occurs and regardless of whether the misconduct occurs on or off the school's grounds. Misconduct applies to the following actions by a student (the usual consequences are given in parentheses):

- Threatened, attempted, or caused serious physical injury to another person (zero tolerance leading to immediate suspension followed by expulsion).
- Willfully used force or violence against another person except in self-defense (zero tolerance leading to immediate suspension followed by expulsion).
- Caused, attempted to cause, threatened to cause, or participated in any hate crimes or other acts based on age, sex, race, ethnicity, or disability (zero tolerance leading to immediate suspension followed by expulsion).
- Engaged in harassment, threats, or intimidation directed against any school personnel or students (zero tolerance leading to immediate suspension followed by expulsion).
- Made terrorist threats against school personnel, students, and/or school property (zero tolerance leading to immediate suspension followed by expulsion).
- Possessed, sold, or furnished a firearm, knife, explosive, other dangerous object, or imitation of these banned objects, unless, in the case of possession, the student obtains permission from the Director/Principal prior to bringing the object onto campus (zero tolerance leading to immediate suspension followed by expulsion; in the case of a firearm, the federal Gun-Free Schools Act of 1994 mandates expulsion for at least one calendar year except on a case-by-case basis).
- Possessed, used, negotiated to sell, sold, furnished, or been under the influence of any controlled substance, prescription drug, alcoholic beverage, or intoxicant of any kind (not including use or possession of a student's own prescription products) (zero tolerance leading to immediate suspension followed by expulsion).
- Possessed, used, negotiated to sell, sold, or furnished any drug paraphernalia (zero tolerance leading to immediate suspension followed by expulsion).
- Stole, attempted to steal, knowingly received, or otherwise was involved in the theft of private or school property (zero tolerance leading to immediate suspension).
- Committed or attempt to commit robbery or extortion (zero tolerance leading to immediate suspension).
- Harassed, threatened, or intimidated another person who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of preventing that person from being a witness and/or retaliating against that person for being a witness (zero tolerance leading to immediate suspension).
- Engaged in, or attempted to engage in, hazing [as defined in EC 32050] (progressive discipline, suspension, expulsion, and/or required withdrawal from the school depending on seriousness and duration of misconduct).
- Aided or abetted the infliction or attempted infliction of physical injury to another person (progressive discipline, suspension, expulsion, and/or required withdrawal from the school depending on seriousness and duration of misconduct).

- Vandalized or otherwise purposefully damaged or destroyed school property (progressive discipline, suspension, expulsion, and/or required withdrawal from the school depending on seriousness and duration of misconduct).
- Committed an obscene act or engaged in habitual profanity or vulgarity (progressive discipline, suspension, expulsion, and/or required withdrawal from the school depending on seriousness and duration of misconduct).
- Possessed, used, negotiated to sell, sold, or furnished tobacco, or any product containing tobacco or nicotine products (progressive discipline, suspension, expulsion, and/or required withdrawal from the school depending on seriousness and duration of misconduct).
- Disrupted school activities or willfully defied the valid authority of school personnel (progressive discipline, suspension, and/or required withdrawal from the school depending on seriousness and duration of misconduct).
- Failure to abide by the terms of a written remediation agreement drafted in response to repeated behavioral problems (suspension and/or required withdrawal from the school).
- Violation of the student honor code with respect to academic activities (progressive discipline, suspension, and/or required withdrawal from New West depending on seriousness and duration of misconduct).

New West's discipline policy provides students and their parents with an opportunity for due process. Due process includes the following:

- A fair, impartial investigation of alleged student misconduct.
- Written notice to the student's parents when discipline involves more than a verbal warning.
- An opportunity for the student and the student's parents to respond to charges of misconduct and subsequent disciplinary measures.
- An opportunity for the student and the student's parents to work cooperatively with the school to formulate consequences and corrective actions appropriate for the misconduct.
- The right of parents to request intervention by the student success committee when chronic disciplinary problems are impeding a student's school performance.
- Access to the school's procedures for resolving disputes arising within the school including a hearing before the Director/Principal, appeal to the Executive Committee, and appeal to the Board of Directors, whose decision is final.

Any student who repeatedly violates the school's behavioral expectations is required to attend a meeting with the appropriate school staff and the student's parents. The school prepares a specific, written remediation agreement outlining future expectations for the student's conduct, timelines, and consequences for failure to meet the expectations which include, but are not limited to, suspension, expulsion, or required withdrawal from the school. , Pursuant to the school's adopted policies, the Director/Principal may discipline students who fail to comply with the terms of a remediation agreement, up to and including suspension, expulsion, or required withdrawal of the student from school.

New West's discipline policy regarding suspension, expulsion, and required withdrawal from school includes the following steps as may be appropriate for the circumstances:

- School employees notify the Director/Principal that a student's conduct warrants suspension, expulsion, or required withdrawal (and immediate notification of the local law enforcement agency if there is danger to others or risk of serious damage to school property).

- The Director/Principal conducts an informal conference with the student and his/her parents as soon as possible. The Director/Principal provides written notification of the reason for the disciplinary action and the evidence against the student. The student and/or the student's parents have the right to present the student's version and evidence in his/her defense.
- The informal conference is not required in an emergency situation that involves clear and present danger of serious damage to school property and/or the lives, safety, or health of any person. In an emergency situation, depending on the circumstances, the student is taken to and held in the school office or other supervised area, the student's parents are advised to remove their child from the school grounds and to not return until notified of the student's right to return, and/or law enforcement agencies are notified.
- The Director/Principal makes a preliminary determination no more than two days after the informal conference as to whether the student is to be suspended, expelled, or required to withdraw from the school.
- The Director/Principal mails written notice of the preliminary determination to the student and the student's parents within two days of making that decision. The notice includes the reason for the suspension, expulsion, or required withdrawal, the length of time before the student can return to school, the school's disciplinary procedures, the student's due process rights, and the date, time, and place of the suspension/expulsion hearing.
- A suspension or expulsion hearing is scheduled within one week of the written notice before a three person student conduct panel. The panel members are chosen by the Director/Principal from among the school's administrators and credentialed teachers. The Director/Principal conducts the hearing unless he/she is involved directly in the event(s) that led to suspension or expulsion, in which case the three member panel chooses amongst themselves the person to conduct the hearing. The hearing is conducted informally but in a way that provides the student, the student's parents, and other's who are involved in the event(s) with an equitable opportunity to present evidence and hear witnesses. The hearing, which is closed to the public, is open to only those invited by the Director/Principal because of their involvement in the matter, including those people requested by the student's parent by written notice to the Director/Principal.
- A written decision describing the course of action chosen by the student conduct panel is mailed to the student's parents, copied to the Board of Directors, and placed in the student's file. The decision specifies the length of suspension or expulsion as well as any conditions that must be met before the student can return to school.
- The student's parents (or the student if at least 18 years of age) or the Director/Principal may appeal the conduct panel's decision to the Executive Committee and the Board of Directors as allowed by the school's internal dispute resolution procedure (see *Required Elements of the Charter. Section XIV.A. Disputes Arising within the School*).

The length of suspension for students is usually five consecutive days or less. If the suspension exceeds five consecutive school days, the Director/Principal meets with the student's parents to discuss the progress of the suspension upon completion of the fifth day of suspension. The school and the student's parent work together to provide the student with classroom materials and assignments to be completed at home during the length of the suspension.

Expulsion is mandatory if the Director/Principal finds the student's actions involved a zero tolerance offense. The Director/Principal is also obligated to recommend expulsion when, due to the nature of the violation, the student's presence at New West causes a continuing danger to school property or an ongoing threat to the lives, safety, or health of any student, employee, or other person related to the school. The Director/Principal may also expel a student, or recommend

a required withdrawal, when other means of correction are not feasible or have repeatedly failed to bring about acceptable conduct.

A student who is expelled or required to withdraw from New West loses the right to attend the school as a continuing student. If a student is expelled or required to withdraw, then New West immediately notifies the District or other school district in which the student resides. New West works cooperatively with that school district to assist with the educational placement of the student in an appropriate setting as quickly as is practical given the particular circumstances of the student and nature of the misconduct. However, the school district of residence, not New West or LAUSD, has full responsibility for the continued public education of the student. New West reports to the school district where the student is likely to attend all the incidents wherein the student engaged in violent behavior, criminal misconduct, and/or other serious offenses that did or could impose a threat to students or school personnel. New West provides notification to the District of any expulsions or required withdrawals and includes suspension, expulsion, and required withdrawal data in its annual performance report.

Special procedures apply to disciplining a student with disabilities. In a matter involving a student who has an IEP, New West follows all legally mandated procedures for student discipline, including suspension, expulsion, and required withdrawal from the school. In particular, a student with an IEP has the right to have the IEP team review the student's current educational program and recommend a behavior support plan to remedy discipline problems within the context of the student's special needs. In general, New West suspends, expels, or requires withdrawal of the student only if an IEP team meeting is held, the team determines that the misconduct was not caused by, or was not a direct manifestation of, the student's identified disability, and the team determines that the student was appropriately placed at the time the misconduct occurred. The IEP team is responsible for determining alternative educational settings that allow the student to continue to participate in general education, although in another location, and to receive services that enable the student to meet the goals of his/her IEP while addressing the behavior that is the subject of the discipline. New West collects and provides the District with data regarding the suspension and expulsion of special education students as required by the District's Modified Consent Decree.

XI. Element K: Staff Retirement Benefits

New West offers retirement benefits to all of its administrative, instructional, and staff employees who perform creditable service. Currently, as of the 2005-06 school year, the school's teachers and administrators are entitled to participate in the State Teacher's Retirement System (STRS) and other staff are entitled to participate in the Public Employees' Retirement System (PERS) as described in Education Code Section 47611(a). The Board of Directors, at its discretion after consultation with the school's employees, may offer some combination of a school sponsored retirement plan, the federal social security program, STRS, and/or PERS. New West informs all applicants for positions at the school about each of the following [EC 47611(b)]:

- The retirement system options available to the applicant, including but not limited to whether coverage under STRS or PERS, or both, is available.
- The possibility that working at New West may exclude the applicant from further coverage in the applicant's current retirement system, depending on the retirement options offered by the school.

XII. Element L: Public School Attendance Alternatives

New West is a school of choice that does not have a defined attendance area but is available for students who wish an alternative to attending their local neighborhood public school that serves grades 6-8. If a student withdraws or is expelled from New West, then the school district in which

the student resides works with the student's parents to find a place for the student in another public school that is as near as possible to the student's place of residence in accordance with the established enrollment and transfer policies of that school district. The district in which the student resides has full responsibility for the continued public education of any student who withdraws or is expelled from New West.

XIII. Element M: Leave of Absence for District Employees to Work at the School

All provisions pertaining to leaves and return rights for certificated employees of the District are in accordance with the current UTLA/District Collective Bargaining Agreement. New West follows the provisions outlined in the UTLA/District Bargaining Agreement (Article XII, Section 17.0. Personal Leave (Unpaid) for certificated employees of the District). In accordance with this agreement, District employees in permanent status who wish to work at New West are granted an unpaid leave for a period not to exceed two semesters (filing deadline is April 15th for teaching at New West the next school year). At the end of the two semester unpaid leave, the employee must return to or resign from employment with the District.

Employees of other school districts or educational agencies are governed by their employer's personnel policies and/or labor union agreements with respect to leaves of absence to work at New West and their right of return to work for their school district.

XIV. Element N: Dispute Resolution Processes

A. Disputes Arising within the School

New West's internal dispute resolution process, as described below, addresses complaints, conflicts, and disputes that involve the school and its various stakeholders, including prospective students and their families. The Director/Principal is responsible for administering and monitoring the internal dispute resolution process. The following general principles govern all levels of New West's internal dispute resolution process:

(390) Emphasis on written school policies, dispute resolution training, and open, honest, collegial communications to avoid misunderstandings and conflicts between or among students, parents, teachers, administrators, staff, and community members.

(391) Provisions for notification, participation, and due process for all parties involved in a dispute.

(392) Assurances of fair, equitable, unbiased treatment of all parties involved in a dispute without fear of retaliation.

(393) Investigation, hearing, and resolution of disputes in a timely manner with provisions for appropriate remedies if a problem is discovered.

(394) Guarantees of privacy and confidentiality with respect to public release of information regarding personal information, personnel files, student records, and other sensitive matters.

(395) Adherence to the school's conflict of interest policy that requires persons to refrain from participating in mediating or resolving a dispute when they are personally involved or have a self-interest in the outcome of the dispute.

(396) Alternative procedures when appropriate or required by law such as for disputes involving special education, expulsion of students, or termination of staff, or disputes involving someone who would otherwise serve as a facilitator in the dispute resolution process (e.g., complaints about the Director/Principal would bypass that person and be handled by the Executive Committee).

(397) Requirements that the school's stakeholders follow the specified steps in the internal dispute resolution process rather than contacting people inappropriately or settling grievances via ad hoc methods of their own choosing.

(398) Review and revision of the internal dispute resolution process annually to ensure its efficacy and responsiveness to the school's stakeholders.

New West uses a hierarchical approach to settling internal disputes that involves the following sequential levels of resolution:

(399) **Personal interaction**. The parties directly involved in the dispute make good faith efforts to resolve the problem through direct, open discussions among themselves.

(400) **Peer mediation.** The Director/Principal appoints and arranges for dispute resolution training for student, parent, teacher, and staff mediators, who are available to facilitate informal resolution of conflicts among peers not settled by personal interactions.

(401) **Supervisory intervention.** Disputes not resolved through peer mediation are referred to an appropriate, non-involved, or next-most-responsible person. For example, a teacher handles disputes among students, another mutually agreeable teacher handles disputes between a student and a teacher, the Director/Principal handles disputes among parents, among teachers, or between teachers and parents, and a member of the Executive Committee or Board of Directors handles disputes between parents or teachers and the Director/Principal. The intent is to handle disputes reaching this level through intervention and mediation in a way that encourages informal resolution before invoking the following levels of dispute resolution.

(402) **Director/Principal.** Disputes not resolved informally are submitted in writing with all available documentation to the Director/Principal, who provides copies of the complaint to all involved parties within three days. The Director/Principal usually hears the dispute directly, but may refer it to a Board of Directors committee that is better able to seek a resolution (e.g., a complaint about unsafe school conditions might be referred to the health and safety committee, or a complaint about a teacher's classroom performance might be referred to the personnel committee). The Director/Principal investigates the complaint, interviews involved parties, accepts written statements and documentation from the involved parties, and takes other steps that may be necessary to reach a fair, impartial conclusion about the dispute. The Director/Principal renders a decision in writing within seven days as to the resolution of a dispute and possible remedies, and communicates the decision to all involved parties.

(403) **Executive Committee.** Any person who is a party to a dispute has 14 days to appeal the determination of the Director/Principal to the Director/Principal, who convenes the Executive Committee and provides copies of the appeal to all involved parties with seven days of receiving the appeal. The appeal must be in writing and include all available documentation about the dispute. The Executive Committee, including the Director/Principal, may decide to uphold the judgment of the Director/Principal without further deliberations, it may decide to hear the appeal itself, it may decide to refer the appeal directly to the full Board of Directors, or it may decide to refer the appeal back to the Director/Principal for further deliberation. Decisions by the Executive Committee on the merits of an appeal are made only after all parties have an opportunity to express their views on the dispute in person at a hearing attended by all parties and/or in writing that is shared among all parties. The decision of the Executive Committee is made in writing within 14 days of receiving the appeal and communicated immediately to all parties by the Director/Principal.

(404) **Board of Directors.** Any person who is a party to a dispute has 14 days to appeal the determination of the Executive Committee to the Chair of the Board of Directors, who

refers the appeal to the full Board of Directors and provides copies of the appeal to all involved parties within seven days of receiving the appeal. The appeal must be in writing and include all available documentation about the dispute. The Board of Directors appoints an ad hoc committee of five impartial members to hear the appeal. Parties to the dispute have an opportunity to express their views on the dispute in person at a hearing attended by all parties and/or in writing that is shared among all parties. The decision of the ad hoc committee is made in writing within 30 days of receiving the appeal and communicated immediately to all parties by the Director/Principal. The determination of the ad hoc committee is the school's final decision on the dispute.

The District, at its discretion, refers all complaints regarding any aspect of the school's operation, for which there appears to be no implication regarding the district's fundamental interest, to the school's Director/Principal for resolution in accordance with the school's adopted internal dispute resolution policies. The District agrees not to intervene in any dispute unless the matter directly relates to one of the reasons specified in law for which a charter may be revoked or has a clear, significant, material implication regarding the district's fundamental interest as the chartering entity. The District has the right, as part of its supervisory responsibilities as the chartering authority, to investigate disputes arising within the school.

B. Disputes between the School and the District

New West and the District agree that the best defense against disagreements is open, collegial discussions between their staffs to try to resolve the matter in dispute at the earliest possible moment. If resolution is not reached by mutual agreement of the staffs, then the dispute is handled through following process:

(405) Any controversy, claim, or dispute arising out of or relating to the Charter, or the breach thereof, must be submitted in writing ("Written Notification"). The Written Notification identifies the nature of the dispute. The Written Notification is tendered by personal delivery, by facsimile, or by certified mail. The Written Notification is deemed received (a) if personally delivered, upon date of delivery to the address of the person to receive such notice if delivered by 5:00 p.m., or otherwise on the business day following personal delivery; (b) if by facsimile, upon electronic confirmation of receipt; or (c) if by mail, two (2) business days after deposit in the U.S. Mail. Written Notifications are to be addressed as follows: (a) Director/Principal (enter name), New West Charter School, 11625 Pico Boulevard, Los Angeles, CA 90064; or (b) Director of Charter Schools (enter name), Charter Schools Office, Los Angeles Unified School District, 333 S. Beaudry Avenue – 25th Floor, Los Angeles, CA 90017.

(406) A written response ("Written Response") is tendered to the other party within twenty (20) business days from the date of receipt of the Written Notification. The parties agree to schedule a conference to discuss and resolve the controversy, claim, or dispute at issue ("Issue Conference"). The Issue Conference takes place within fifteen (15) business days from the date the Written Response is received by the other party. The Written Response is tendered by personal delivery, by facsimile, or by certified mail. The Written Response is deemed received: (a) if personally delivered, upon date of delivery to the address of the person to receive such notice if delivered by 5:00 p.m., or otherwise on the business day following personal delivery; (b) if by facsimile, upon electronic confirmation of receipt; or (c) if by mail, two (2) business days after deposit in the U.S. Mail.

(407) If the controversy, claim, or dispute is not resolved by mutual agreement at the Issue Conference, then either party may request that the matter be resolved by

mediation. Each party bears its own costs and expenses associated with the mediation. The mediator's fees and the administrative fees of the mediation are shared equally among the parties. Mediation proceedings commence within 120 days from the date of the Issue Conference. The parties mutually agree upon the selection of a mediator to resolve the controversy or claim at dispute. The mediator may be selected from the approved list of mediators prepared by the American Arbitration Association. Mediation proceedings are administered in accordance with the mediation rules or guidelines of the American Arbitration Association.

(408) If mediation is not successful, then the parties agree to settle the controversy, claim, or dispute by arbitration conducted by a single arbitrator in accordance with the rules or guidelines of the American Arbitration Association. The arbitrator must be an active member of the California State Bar or a retired judge of the state or federal judiciary of California. Any arbitration award rendered is final, binding, and legally enforceable upon all parties. Judgment of any arbitration award may be entered in any court having proper jurisdiction. Each party bears its own costs and expenses associated with the arbitration. The arbitrator's fees and the administrative fees of the arbitration are shared equally among the parties.

(409) Any party who fails or refuses to submit to arbitration bears all costs and expenses incurred by the other party in compelling arbitration of any controversy, claim, or dispute.

(410) If either party fails to comply with the prescribed timelines set forth in paragraphs one and two above, then the parties proceed forward with mediation, which commences within 160 days from the date of the Written Notification.

XV. Element O: Public School Employer Declarations

New West, operating as a nonprofit public benefit corporation, is the exclusive public employer of all of the school's employees for the purposes of the Educational Employment Relations Act as specified in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code [EC 47611.5(b)]. This part of state law deals guarantees the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford certificated employees a voice in the formulation of educational policy.

Since New West currently employs administrators, teachers, and staff on an "at-will" and/or contractual basis, the school does not comply with those statutes and regulations governing public school employers that establish and regulate tenure or a merit or civil service system. New West is responsible for all policies and procedures related to hiring, promotion, tenure, discipline, and dismissal of all of the school's employees [EC 47611.5(c)].

XVI. Element P: Closure of the School

New West may cease to operate as a public school because of failure to renew the Charter, dissolution of the Charter, revocation of the Charter, or voluntary closure (see *Provisions Related to Changing the Charter*). Closure is defined as the last day needed to accomplish all of the following tasks related to terminating the school's operations, not the last day of educational operations (i.e., scheduled classes).

- New West immediately notifies students, parents, the LAUSD, other school districts in which New West students reside, the Los Angeles County Superintendent of Schools, and the State Superintendent of Public Instruction if termination of the school's educational program is imminent.

- The Board of Directors, in consultation with the District, determines the last day of educational operations (i.e., scheduled classes), the last day of employment for teachers and other staff, and the estimated date for final closure of the school.
- The Board allocates and retains sufficient personnel, space, funds, and other resources for the orderly closure of the school after the end of the school's educational operations.
- The Board retains the Director/Principal, or another person who has appropriate expertise, with pay to manage the school's closure, including authority to retain, hire, or contract for administrative staff and business services as may be required to terminate the school's operations in an orderly way.
- New West and the District work collaboratively to ensure the maintenance, transfer, and archiving of student records. New West is responsible, if possible, for transferring a student's cumulative record to the students' districts of residence and/or to the school to which the student transfers. Furthermore, the parents of students enrolled in New West over the last seven years before closure are notified by mail at their last known address that middle school records for their child(ren) are available at the school office for a limited amount of time. Any remaining student records still at the school on the day of final closure are disposed or destroyed in a manner that ensures confidentiality of the records unless the District agrees to accept custodial responsibility for them.
- The retained staff, working with the Board, determines (audits) the net assets and net liabilities of New West. The assessment includes an accounting of the school's assets, including cash and accounts receivable and an inventory of property, equipment, and supplies. It also includes an accounting of the school's liabilities including any accounts payable, reductions in apportionments as a result of audit findings or other investigations, loans, and unpaid staff compensation.
- The Board, to the extent feasible, directs the retained staff regarding liquidation of school assets to pay off any outstanding liabilities.
- The Board, working with the retained staff, is responsible for disposing of the school's assets and liabilities as directed in New West's corporate bylaws. Assets of the school are liquidated to pay off outstanding liabilities. Restricted assets, such as grants and categorical funds, are returned to the authorizing entity. Any unencumbered funds provided by public agencies revert to the District for final disposition as allowed by law after the school's final closure.
- The Board's Financial Officer, working with the retained staff, ensures that the regular financial reports required by the Charter are prepared and filed until final closure. A final audit of the school's assets and liabilities is performed and communicated to the District. The cost of the reports and audit is a New West liability paid from the school's remaining assets.
- New West is responsible for all liabilities of the school at the time of closure. The District is not liable for any debts or obligations of the school if it closes provided the District has complied with all oversight responsibilities required by law [EC 47604(c)].
- Any and all other assets of the school remaining at the time of closure are the property of New West, the nonprofit public benefit corporation, to be used or disposed of as allowed by its corporate bylaws.

Provisions Related to Funding, Legal Issues, and Business Affairs

I. Charter School Funding

New West is entitled by law to full and fair funding as provided in the Charter Schools Act [EC 47615(a)(3)] and this entitlement, by law, must be liberally construed [EC 47615(b)]. Furthermore, it is the intent of the California Legislature that New West is provided with operational funding that is equal to the total funding that would be available to a similar school serving a similar student population in terms of numbers of students by grade level and proportion of economically disadvantaged students [EC 47630(a) & 47632]. The District is not responsible for providing supplemental operational funding to New West beyond that which the school is entitled to by law.

New West operates under the supervision of LAUSD as an "independent" charter school autonomous from the District in most of its operations. As such, New West is "funded directly" under the Charter Schools Block Grant Model, which defines the financial relationship between the District and the school. Specifically, the intent of the Block Grant Model is to:

- Provide maximum budgeting flexibility to the district's charter schools.
- Allow the district's charter schools autonomy in implementing their charter programs using funds budgeted for that purpose including the categorical block funds.
- Continue to identify ways in which the District can fiscally support its charter schools in developing models to improve the education of all district students.

As an "independent charter school" operating under the Block Grant Model, New West receives its funding directly through appropriate accounts established in the county treasury by the Los Angeles County Superintendent of Schools [EC 47651(a)(1)]. Direct funding applies to all funding New West is eligible to receive including, but not limited to, the school's general purpose entitlements (including state general purpose block grant and local in-lieu-of property tax funding), its categorical block grant, AB 602 special education funding, lottery funds, and other state and federal categorical aid [EC 47651(b)].

New West has the right to use its general purpose entitlement (including general purpose block grant and in-lieu-of property tax funding) and its categorical block grant for any lawful public school purpose determined by the Board of Directors [EC 47633(c) & 47634(i)]. The Board of Directors determines the use of all other funding received by New West in accordance with the specific conditions, requirements, and limitations, if any, that may be placed on the use of funds received from different sources.

II. Grants, Loans, and Indebtedness

New West, acting as a nonprofit public benefit corporation, has the right to apply for grants from foundations, corporations, and local, state, and federal agencies. With respect to applications for state and federal categorical programs, New West is deemed to be a "Local Education Agency" ("LEA") for the purposes of determining eligibility unless otherwise provided by the Charter Schools Act [EC 47636(a)(1)]. New West is solely responsible for completing its own applications and meeting all requirements of the funding agency related to programmatic and fiscal eligibility, accounting, and reporting.

New West, acting as a nonprofit public benefit corporation, has the right to incur financial obligations in the form of loans, bonds, letters of credit, long-term debt, and rentals, leases, or acquisitions of real estate. New West provides the District with full financial documentation regarding any such financial transactions in a timely fashion that allows the District to evaluate the agreements prior to their execution. The District is not liable for the debts or obligations of New

West because the school operates as nonprofit public benefit corporation [EC 47604(c) and 41365(f)(2)] (see *General Provisions of the Charter. Section VI. Legal Status of the School*). New West includes in all financial documents a prominent statement that the school's nonprofit public benefit corporation is solely responsible for any liability that may arise from the school's financial transactions.

III. Funding by Other Persons or Organizations

New West has the right by law to accept grants, funding, or other assistance from private persons and organizations to operate the school [EC 47603]. Furthermore, as a nonprofit public benefit corporation, New West has the right to both solicit and administer funds in any way that is compatible with applicable laws governing such corporations unless specifically prohibited by laws governing charter schools. The parents, teachers, and administrators of New West are proactive in seeking such assistance to advance the educational goals of the school. New West encourages parent contributions to help fund the school's enrichment activities but does not require any monetary contribution as a condition for application, admission, enrollment, or participation in any of the school's regular educational activities. New West has sole discretion with respect to the use of funds or other assistance made available to the school by private persons or organizations.

IV. Court-ordered Integration

New West is subject to the requirements of the Crawford Court Order. The school's plan to achieve and maintain the District's ethnic balance goal, which is within a 70:30 or 30:70 ratio, is described in *Required Elements of the Charter. VII. Element G: Racial and Ethnic Balance.*

V. Financial Reporting

New West prepares and submits the following quarterly reports to the District and the Los Angeles County Superintendent of Schools as required by law [EC 47604.33]:

- On or before July 1, a preliminary budget.
- On or before December 15, a first interim financial report that reflects changes through October 31.
- On or before March 15, a second interim financial report that reflects changes through January 31.
- On or before September 15, a final unaudited report for the full prior fiscal year.

These reports include actual and revised budget figures as well as projected revenues, expenditures, and fund balances. New West completes and submits these fiscal reports using the state-approved forms provided by the California Department of Education. Currently, the school submits annual financial data using the Alternative Form.

Additionally, New West prepares and submits the following reports in the required format and within timelines specified by LAUSD each year:

- Provisional Budget: – spring prior to next fiscal year.
- Final Budget – July of the fiscal year.
- Unaudited Actuals – July following the end of the fiscal year.
- Audited Actuals – November following the end of the fiscal year.
- Classification Report – monthly on the Monday after the last day of the school month.
- Other financial information needed by the District to assess the fiscal condition of the charter school

New West also arranges for an independent certified public accountant to audit the school's financial statements on an annual basis (see *Required Elements of the Charter. IX. Element I: Annual Audits and Reports. A. Financial Audit*). The report of the independent auditor is submitted by December 15 of each year to the District, the State Controller, the Superintendent of the Los Angeles County Office of Education, and the Charter Schools Division of the California Department of Education.

VI. Oversight Costs and District Responsibilities

New West pays the district's actual costs of supervisory oversight not to exceed one percent (1%) of the school's revenue [EC 47613(a)], where "revenue of the school" means general purpose entitlement and categorical block funding [EC 47613(f)][20]. Included in the district's supervisory fee are the district's costs of performing its supervisorial duties [EC 47604.32(f)] and assessing the schools financial status [EC 47604.33(c)]. The District may charge indirect costs for grants it processes for the charter school, not to exceed the rate allowed by the grant.

As one of its supervisory responsibilities, the District uses any financial information it obtains from New West, including, but not limited to, the reports listed in the preceding section, to fufill its legal obligation to assess the fiscal condition of the school [EC 47604.32 (d)]. The District reviews New West's interim reports, unaudited actuals, budgets, and other financial statements to determine the school's fiscal status and make sure that the school operates with a balanced budget, ends the year with a positive fund balance, and provides sufficient reserves for contingencies. When reviewing the school's financial records, the District looks for financial indicators that could lead to fiscal problems, if not addressed. These indicators include, but are not limited to negative variances in budgeted vs. realized revenues, spending beyond budgeted amounts, and negative cash flows.

If a problem is detected with New West's financial condition, then the District notifies the school, specifies what is needed to resolve the problem, and establishes a timeline for compliance. The District works cooperatively with the school by providing information, forms, contracts, advice, and recommendations that help resolve the problem. The school must take corrective action and submit documentation to the District that the problem is resolved by the established deadline. If the school fails to meet the deadline or resolve the problem, then the District drafts a written notification requesting the documentation with a statement of consequences should New West fail to comply.

VII. Business Management

New West is responsible for reasonable plans and systems to manage its business and administrative affairs efficiently and effectively. The school is responsible for reasonable internal controls that ensure sound financial practices, clear delineations of responsibility, and adherence to generally acceptable accounting principles applicable to charter schools. New West conducts all of its financial operations in a timely manner and for all programs (regular, categorical, and special education) follows the procedures established by the District and state and federal governments, as appropriate and applicable to charter schools.

New West is responsible for arranging its own business, financial, administrative, and personnel services as necessary to meet the operational needs of the school. These services include, but are not limited to, the following [EC 47613(d)]:

- Bookkeeping, budgeting, cash flow, audit management, and other financial services.

[20]. If New West were to occupy substantially rent-free facilities provided by the District, then the District could charge for its actual supervisory costs not to exceed three percent (3%) of the revenue of the charter school [EC 47613(b)].

- Payroll, employee benefits, and other human resource services including fingerprinting and criminal record processing.
- Purchasing, procurement, bidding, and inventory.
- Grants, donations, loans, and their management.
- Local, state, and federal compliance issues.
- Student information including enrollment, attendance accounting, standardized test processing, and academic records.
- Reports required by laws applicable to charter schools.

These duties are performed, as may be appropriate and cost-effective, by either qualified school employees or business management firms familiar with charter school operations.

For federal programs, including Title I, New West is responsible for meeting the eligibility and fiscal requirements established by the federal government and completing the Consolidated Application if the school elects to receive funding directly. New West provides the District with all financial and related reports, including enrollment attendance, to enable the District to meet its requirements by law. Notwithstanding New West's expectation to receive Title I funding under federal guidelines, said funding may not be forthcoming until the school meets established criteria for a determined school year.

The District may, at its discretion, provide services to New West on a fee-for-service basis, if requested by the school. In such a case, the District determines the cost of providing such services including any overhead cost incurred by the district office providing the service. The use of such services requires a memorandum of understanding negotiated between New West and the District.

VIII.Liability and Indemnification

The District is not liable for the debts or obligations of New West, or for claims arising from the performance of acts, errors, or omissions by the school, if the District has complied with all oversight responsibilities required by law [EC 47604(c)]. To the fullest extent permitted by law, New West agrees, at its own expense, to indemnify, defend, and hold harmless the District and the Board of Education and their members, officers, directors, agents, representatives, employees, and volunteers from and against any and all claims, damages, losses, and expenses, including but not limited to attorney's fees, brought by any person or entity whatsoever, arising out of, or relating to this charter agreement. New West further agrees, to the fullest extent permitted by law, at its own expense, to indemnify, defend, and hold harmless the District and the Board of Education and their members, officers, directors, agents, representatives, employees, and volunteers from and against any and all claims, damages, losses, and expenses, including but not limited to attorney's fees, brought by any person or entity whatsoever for claims, damages, losses and expenses arising from or relating to acts or omission of acts committed by New West, and its officers, directors, employees, and volunteers.

IX. Insurance

The District provides no insurance coverage to New West under any of district's self-insured programs or commercial insurance policies. New West secures and maintains, as a minimum, insurance as set forth below with insurance companies acceptable to the District to protect the school from claims that may arise from its operations. The following insurance policies are required:

- Workers' compensation and unemployment insurance. This coverage, in accordance with provisions of the California Labor Code, is adequate to protect New West from claims under the Workers' Compensation Acts that may arise from its operations including employers liability limits of $1,000,000/$1,000,000/$1,000,000.
- Comprehensive bodily injury, property damage, commercial auto liability, and general liability insurance. This policy protects New West's assets in the event that it is sued or found liable for some debt, wrong, or injury to persons or property (general liability coverage including options for employees and volunteers as additional insured, sexual abuse coverage, educator's professional liability, corporal punishment, employee benefits liability, student accident coverage, and general liability broadening endorsement). The combined single limit coverage is not less than $5,000,000 for each occurrence including commercial auto liability coverage of at least $1,000,000 combined single limit (or $5,000,000 combined single limit if the school operates student bus services. The policy is endorsed to name the District and the Board of Education of the City of Los Angeles as named additional insured. Furthermore, the policy provides specifically that any insurance carried by the District, which may be applicable to any claims or loss, is deemed excess to New West's primary insurance despite any conflicting provisions in the district's Policy for Charter Schools. Coverage is maintained with no self-insured retention above $25,000 without approval by the District.
- Fidelity bond insurance. This coverage applies to school employees and parent/community volunteers who handle, process, or otherwise have responsibility for funds, supplies, equipment, or other assets of the school. The minimum amount of coverage is $50,000 per occurrence, with no self-insured retention.
- Errors and omissions insurance. This liability coverage protects New West's employees and members of the Board of Directors from personal liability arising from their work at or involvement in the school, its operation, and its educational program (directors and officers liability coverage). The policy includes sexual molestation and abuse. The minimum limit is $3,000,000 per occurrence.

If New West decides any other type of insurance is necessary to protect the school, its employees, and its students, then its purchase is entirely the responsibility of the school (e.g., coverage for student accidents or for damage or theft to school, employee, or student property).

New West furnishes the District's Office of Risk Management and Insurance Services with copies of certificates of the above insurance policies, signed by an authorized representative of the insurance carrier, within 30 days of all new policy inceptions, renewals, or changes. Facsimile or reproduced signatures may be acceptable but the District reserves the right to require complete certified copies of the required insurance policies. Certificates must 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 Los Angeles Unified School District."

X. Legal Services

New West retains and funds legal services as may be required from time to time in the operation of the school. In general, when needed, New West seeks legal counsel familiar with charter schools, charter school laws, and public education. All decisions with regard to legal services and legal proceedings are the sole responsibility of the Board of Directors. New West provides the District with copies of complaints or other legal documents if the school becomes involved in a lawsuit or other legal proceedings as either plaintiff or defendant.

Provisions Related to Changing the Charter

I. Amendments and Revisions to the Charter

New West's Charter is a "living" document that evolves over time as the school matures, changes its practices, refines its operations, and improves its educational program in response to the needs of its students, parent, and employees. New West's Board of Directors may approve additions, revisions, and other changes, small and large, to the Charter over its five year term to reflect the current state of the school's operations and educational program. Any such changes are submitted in writing to the district's Charter Schools Office for determination as to whether or not the proposed changes rise to the level of material revisions of the Charter. The District has a maximum of 30 days to inform New West in writing that the District either approves the changes or considers them to be material revisions that require a formal review and approval process. Material revisions of the provisions of the Charter require the approval of the district's Board of Education. Petitions to the District for material revisions to the Charter are governed by the standards and criteria specified in Section 47605 of the Charter Schools Act [EC 47607(a)(2)].

II. Changes in Charter School Law

During the term of the Charter, there may be additions, deletions, revisions, and other changes to the Charter Schools Act and other state and federal laws and regulations applicable to charter schools. New West and the District are bound by those changes in law and become part of the Charter once they take effect. Both parties agree that such changes in law do not require an immediate revision of the Charter but can be incorporated the next time the Charter comes before the Board of Education for approval of material revisions or charter renewal requested by the school. If there is dispute over the meaning or applicability of changes in charter school law, then the District and New West follow the dispute resolution process given in the Charter.

III. Renewal of the Charter

The Charter, which expires on June 30, 2012, can be renewed for one or more subsequent five year terms by the District upon petition by New West [EC 47607(a)(1)]. Renewal of the Charter is governed by the standards and criteria in Section 47605 of the Charter Schools Act [EC 47607(a)(2)].

After New West's fourth year of operation (i.e., September 2007), the school is required to meet at least one of the following criteria prior to receiving renewal of its Charter:

- Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.
- Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.
- Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.
- The District determines that New West's academic performance is at least equal to the level of the public schools that the school's students would otherwise have been required to attend, as well as the academic performance of the schools in LAUSD in which New West is located, taking into account the composition of the student population that is served at New West. This determination is based on documented and clear and convincing data as well as student achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program for demographically similar student populations in the comparison schools.

New West and the District agree to work collaboratively on a timely schedule to satisfy the district's processes and timelines for charter renewal effective July 1, 2012, or earlier as may be agreed upon by the school and school district. New West anticipates that the District-sponsored evaluations of the school will begin in the spring of 2011 and be completed by October 2011. The evaluation is based on three sources of data: observation, interviews, and examination of archival records. The school's data are compared to its Charter, looking at evidence of the school meeting expectations for improving teaching and learning. New West then has the opportunity to review the findings and incorporate them in the development of its renewal proposal. The process of renewal is similar to that followed by a new charter petitioner, with additional consideration given to the school's record of success as a charter school. New West must, at a minimum, demonstrate how it meets the goals and objectives described in the Charter including improved student learning and achievement. Additionally, New West must address how it fulfills the legislative intent of the Charter Schools Act [EC 47601] (see *General Provisions of the Charter*). The renewal process may be fast-tracked if New West demonstrates exceptional success.

IV. Dissolution of the Charter

New West may elect voluntarily to relinquish its Charter at any time before the end of its term in 2012, provided that dissolution of the Charter does not cause closure of the school in the middle of a school year. Dissolution of the Charter requires all of the following affirmations taken in the order given:

- A two-thirds majority vote (>66.7%) by written ballot of all voting members of the Board of Directors.
- A simple majority vote (>50%) by written ballot of all full-time credentialed teachers.
- A simple majority vote (>50%) by written ballot of all parents who respond to a school-wide referendum on charter dissolution.
- Approval of the closure by the District.

New West must notify the District of any proposal to relinquish the Charter. If dissolution of the Charter is imminent, then New West agrees to work with the District regarding closure of the school (*see Required Elements of the Charter. XVI. Element P: Closure of the School*).

V. Revocation of the Charter

The District, as the charter-granting entity, may revoke the Charter of New West if it is found that the school does any of the following [EC 47607(c)]:

- Commits a material violation of any of the conditions, standards, or procedures set forth in the Charter.
- Fails to meet or pursue any of the student outcomes identified in the school's Charter.
- Fails to meet generally accepted accounting principles, or engages in fiscal mismanagement.
- Violates any provision of law.

Prior to revoking school's Charter, and after conducting appropriate investigations, the District must notify New West in writing of the specific violation(s) that might lead to charter revocation. The District must give New West a reasonable opportunity to cure the violation, unless the District determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the school's students [EC 47607(c)]. If there is dispute over the matter, then the District and New West follow the dispute resolution process given in the Charter.

The State Board of Education (SBE), based upon the recommendation of the State Superintendent of Public Instruction, may take appropriate action, including, but not limited to revocation of the Charter, if the SBE finds any of the following [EC 47604.5]:

- Gross financial mismanagement that jeopardizes the financial stability of New West.
- Illegal or substantially improper use of school funds for the personal benefit of any officer, director, or fiduciary of New West.
- Substantial or sustained departure from measurably successful practices such that continued departure would jeopardize the education development of the school's students.

VI. Severability

The terms of the Charter are severable. In the event that any of the Charter's provisions are determined to be unenforceable or invalid for any reason, the remainder of the Charter remains in effect, unless mutually agreed otherwise by the District and New West. The District and New West agree to meet to discuss and resolve any issues or differences relating to invalidated provisions in a timely, good faith fashion.

ITEM #24

CALIFORNIA STATE BOARD OF EDUCATION

July 2007 AGENDA

SUBJECT	
California's Dropout Problem: Causes, Policy Approaches, and Interventions.	☒ Action ☒ Information ☐ Public Hearing

ISSUE
What factors explain California's high dropout rate? And what interventions and policies should be considered to address this problem?

RECOMMENDATION
Systematic study of the dropout problem and its solutions is still in its early stages. (See "Lack of Research, Data Hurts Dropout Efforts, Experts Say," Education Week (May 8, 2007), attached as Attachment 1.) The State Board should consider joining other state policymakers, researchers, and educators in studying the problem. The State Board should also consider promoting curative policies to the extent proven effective or promising.

SUMMARY OF PRESENTATION TO BE MADE TO STATE BOARD
According to the California Department of Education, the graduation rate for students in the Class of 2006 (measured from 9th grade through 12th grade) was approximately 67.1%. The rate was even lower for Hispanic students, African American students, and English Learners (approximately 55%, 56%, and 46.1% respectively).

What factors explain why students drop out? What policies – particularly those at the state level -- should be adopted to address the dropout phenomenon? The purpose of this agenda item is to begin to answer these questions. Board staff has invited two particularly knowledgeable speakers to present on these issues. First, Senator Darrell Steinberg will speak generally about the dropout issue, and discuss four bills that he has introduced to help boost the graduation rate: SB 219 ("Real School Accountability"), SB 344 ("Middle Schools: Early Warning and Intervention"), SB 405 ("College and Career Opportunity Act"), and SB 406 ("Work Permits"). (Senator Steinberg's bio is attached as Attachment 2, and summaries of the four bills are attached as Attachments 3 through 6.)

The second presenter will be Russell W. Rumberger, Professor in the Gervitz Graduate School of Education at the University of California, Santa Barbara. (His bio is attached as Attachment 7.) Professor Rumberger is director of the newly-formed California Dropout Research Project, which has contracted with leading scholars to conduct research and issue reports on California's dropout problem. (The press release announcing the CDRP is attached as Attachment 8, and the "Project Description" is

attached as Attachment 9.) Professor Rumberger will speak about the reasons students dropout, promising interventions and policies, and the work of the California Dropout Research Project.

ATTACHMENTS

Attachment 1: "Lack of Research, Data Hurts Dropout Efforts, Experts Say," Education Week (May 8, 2007) (2 pages). http://www.edweek.org/ew/articles/2007/05/09/36dropout.h26.html

Attachment 2: Senator Darrell Steinberg's Biography (3 pages).

Attachment 3: Summary of SB 219 (Steinberg and Romero) ("Real School Accountability") (1 page).

Attachment 4: Summary of SB 344 (Steinberg) ("Middle Schools: Early Warning and Intervention") (1 page).

Attachment 5: Summary of SB 405 (Steinberg and Nunez) ("College and Career Opportunity Act") (2 pages).

Attachment 6: Summary of SB 406 (Steinberg) ("Work Permits") (1 page).

Attachment 7: Professor Russell W. Rumberger's Biography (1 page).

Attachment 8: Press Release announcing California Dropout Research Project (May 2007) (4 pages). http://lmri.ucsb.edu/dropouts/pr1.pdf

Attachment 9: Project Description of California Dropout Research Project (May 2007) (2 pages). http://lmri.ucsb.edu/dropouts/projectsummary.pdf

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Lack of Research, Data Hurts Dropout Efforts, Experts Say

By Christina A. Samuels

Washington

Despite widespread concern about high school students' dropping out before earning a diploma, research doesn't offer much in the way of proven methods of addressing the problem, experts said last week.

Only eight programs have been researched rigorously enough to merit their inclusion in the federal What Works Clearinghouse, which was established in 2002 by the Institute of Education Sciences to provide a source of scientific evidence about what works in education.

That's just one of the challenges a panel of experts discussed at a May 3 forum on dropout prevention sponsored by the Albert Shanker Institute, a Washington-based think tank named after the late president of the...

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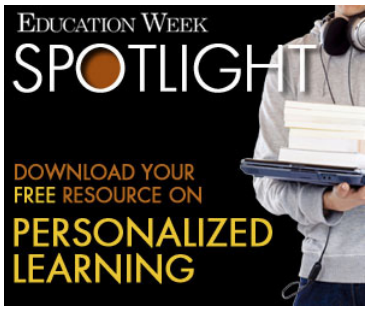

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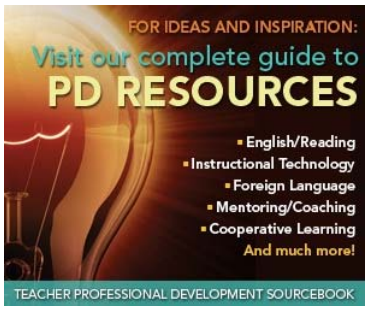

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Senator Darrell Steinberg - Biography

Darrell Steinberg was elected on November 7, 2006 to the California State Senate, representing the 6th District, which includes the capital city of Sacramento, parts of Elk Grove and Citrus Heights.

Steinberg is the chair of the Senate Natural Resources and Water Committee. He also serves on the Senate Judiciary Committee, the Health Committee, the Environmental Quality Committee, the Budget and Fiscal Review Committee and Budget Subcommittee No. 2 on Resources. Steinberg also chairs the Senate Select Committee on High School Graduation.

In addition, Steinberg is a Senate appointee to the Mental Health Services Oversight and Accountability Commission (chair), the Wildlife Conservation Board, the California Ocean Protection Council and the Legislative Blue Ribbon Commission on Autism (chair).

Prior to his election to the State Senate, Steinberg served three terms representing the 9th District of the State Assembly, which includes most of the capital city of Sacramento.

He is the author and co-proponent of Proposition 63, the mental health initiative that was approved by more than 5.6 million California voters on November 2, 2004. Proposition 63 will finally fulfill the promise made by Governor Reagan in 1968 when California closed most of its mental hospitals and pledged to replace them with a community-based system of treatment, prevention and support services. It will generate more than $1 billion per year in state and federal funds to establish mental health programs throughout the state based on the highly successful AB 34 and AB 2034 programs that Steinberg authored earlier.

During his tenure in the Assembly, Steinberg served as Chair of the Assembly Committees on Budget, Appropriations, Judiciary, Labor and Employment, and the Select Committee on High Priority Schools. He also served as a member of the Assembly Housing and Local Government Committees.

Steinberg authored 70 state laws that cover a wide range of vital public policy issues. They include the following:

Mental Health

- The first significant expansion for community mental health programs in more than a decade. AB 34 (Chapter 617, 1999) provided $10 million for Community Mental Health Demonstration Grants to serve homeless adults who are severely mentally ill. Follow-up bills, AB 2034 (Chapter 518, 2000) and AB 334 (Chapter 454, 2001), expanded this successful program to more than $55 million statewide.

Education

- $200 million targeted to improve low performing schools through AB 961 (Chapter 749, 2001), the High Priority Schools Grant Program for Low Performing Schools.
- Legislation providing leadership training for every high school principal, AB 75 (Chapter 697, 2001).
- Expanding after school programs, AB 1984 (Chapter 1025, 2002).
- Author of the High School Pupil Success Act, AB 2531 (Chapter 1028, 2002), encouraging public/private partnerships that reform high schools and improve student achievement, including the formation of smaller "schools within schools".

Foster Care, Civil Rights, and Women's Rights

- Ensuring full and equal access to state programs and activities for persons with disabilities, AB 677 (Chapter 708, 2001).
- Ensuring that our foster care system is directed toward positive outcomes for children, keeping siblings of foster care children together whenever possible, establishing standards in the state and federally funded Independent Living Program for emancipating foster youth, and ensuring a stable education, and creating permanent relationships for foster children AB 636 and AB 705 (2001), AB 1979 (2002), AB 408 and AB 490 (2003).
- Preserving and protecting Title IX here in California against any federal attempts to reduce its important and longstanding protections for girls' and women's athletic programs, AB 833 (Chapter 660, Statutes of 2003).
- Extending Title IX's protection of gender equity for school athletic programs to cover non-school community sports such as softball leagues, AB 2404 (Chapter 852, Statutes of 2004).

Consumer Protection and Public Safety

- Providing a streamlined and cost-effective system to resolve disputes over construction defects, AB 1700 (2001) and AB 903 (2003).
- Prohibiting insurers from canceling policies of houses of worship or non-profits in the wake of a hate crime, AB 1193 (Chapter 253, 2001).
- Encouraging attorneys to perform pro bono legal work, AB 913 (Chapter 880, 2001).
- Expanding designated driver services in California, AB 1855 (Chapter 990, Statutes of 2002).
- Ensuring gun dealers are properly licensed, AB 2080 (Chapter 909, Statutes of 2002).
- Requiring public disclosure of settlement agreements in cases involving abuse of elderly citizens so that people placing loved ones in nursing homes have access to all relevant information about the facility's record of care, AB 634 (Chapter 242, Statutes of 2003).

- Permitting lawyers to reveal confidential client communications when necessary to prevent death or substantial bodily injury, AB 1101 (Chapter 763, Statutes of 2003).
- Requiring police to perform background checks before returning guns seized during arrests or investigations to their owners, AB 2431 (Chapter 602, Statutes of 2004).

Honoring our Cultural Diversity

- $500,000 in matching funds for the planning of the California Unity Center to promote the understanding of diversity in our community, AB 1163 (Chapter 575, 1999). Mr. Steinberg currently serves as board president of the Capital Unity Council.
- Repatriating Native American remains quickly and with respect, AB 978 (Chapter 818, 2001).

Protecting the Environment

- Created the Sacramento Emergency Clean Air and Transportation (SECAT) Program, and the San Joaquin Clean Air Attainment Program through AB 2511 (Chapter 532, 2000) which provides incentives to replace older engines with clean burning, low emission engines.
- Established the Environmental Protection Indicators for California (EPIC) program, which will use more than 80 scientific indicators to monitor the health of the state's air, land and waters, AB 1360 (Chapter 664, 2003).

Prior to his election to the State Assembly in 1998, Darrell Steinberg served on the Sacramento City Council, where he founded Sacramento START (Students Today Achieving Results for Tomorrow), a free literacy-based public/private after-school program. START has since become a model for both statewide and national after school programs. He also led the City Council in adopting a law that prohibits the sale or display of junk guns in Sacramento.

Steinberg was born in San Francisco. He earned a BA in economics from UCLA and a JD from UC Davis Law School. He was the commencement speaker at the UC Davis Law School in 2004 on the 20th anniversary of his graduation. Steinberg served as an employee rights attorney for the California State Employees Association for 10 years before his work as an Administrative Law Judge and mediator.

Steinberg and his wife Julie have two children - a daughter, Jordana, 12, and a son, Ari, 9.

Real School Accountability
SB 219 (Steinberg and Romero)

PURPOSE

California is in the middle of a high school dropout crisis. Fewer than 70% of our 9th graders statewide, and fewer than 50% in some districts, go on to graduate from high school. More than 150,000 students may be leaving high school each year without a diploma.

If the crisis is left unchecked, demographic trends indicate it will only worsen. Latinos are more than twice as likely as Whites to drop out, and are expected to grow dramatically as a proportion of school enrollment in the coming decade. The Public Policy Institute of California predicts that in 2025, there will be twice as many high school dropouts as there will be jobs to support them.

California's existing public school accountability system only holds schools responsible for raising test scores. There is no state-level accountability to assure students actually graduate, nor do we measure how well schools prepare graduating students for success in future academic or career endeavors -- important accomplishments the public expects of our schools.

Dropouts are:
- less likely than graduates to be employed;
- more likely to require public welfare support;
- more likely to commit crimes and become incarcerated.

More than 80% of CA prisoners did not graduate from high school.

This crisis has serious consequences for children, families, schools, communities, and the strength of the California economy. Potential adverse impacts include a strain on the social welfare and corrections systems and a shortage of well-educated Californians to fuel the 21st-century economy.

BILL SUMMARY

SB 219 expands and improves California's Academic Performance Index (API) to reflect the public's fundamental expectations of our schools. It directs the state Superintendent and Board of Education to revise the API to include multiple measures, including:
- 8th and 9th grade dropouts by 2008 (or when reliable data are available);
- 4-year graduation rates when data are available;
- Schools' ability to prepare students for success in college and the world of work.

A diverse and broadly representative advisory group will be assembled to advise the Superintendent and State Board in revising the API to include these multiple measures.

As recommended by the Legislative Analyst's Office, SB 219 also assigns API responsibility to the school and district of origin for students enrolled in alternative education programs, thus ensuring that alternative placements are in the best interests of students, and actually increase the likelihood of graduation.

SUPPORT

- American Civil Liberties Union
- California Acorn
- California Continuing Education Association
- California PTA
- California State University
- Californians Together
- EdTrust West
- EdVoice
- Junior Leagues of California
- Los Angeles Chamber of Commerce
- Public Advocates

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SB 344 (Steinberg)
Middle Schools: Early Warning and Intervention

PURPOSE

California is in the middle of a school dropout crisis. New research suggests that 150,000 California students may be leaving school each year without a diploma. An estimated fewer than 70% of 9th graders in California, and fewer than 50% in some districts, graduate from high school.

Efforts to stem the dropout crisis need to start before students enter high school, before they lose heart and begin the gradual process of disengaging from school.

Research points to several "early warning indicators" that likely dropouts display as early as sixth grade and throughout middle school. Such findings underscore the importance of developing early warning systems that identify students who are highly likely to drop out without effective and timely intervention.

Many schools and districts pay close attention to early warning signs and take steps to intervene with struggling middle school students – before they get to high school and find the multiple challenges of 9th grade insurmountable. But given California's alarmingly high dropout rate, schools must pay closer heed to early "red flags" and provide timely, effective intervention to students who need it.

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BILL SUMMARY

SB 344 establishes a middle school early warning system, connected to the California Longitudinal Pupil Achievement Data System, to identify students at risk of dropping out and provide resources for schools to help them early, when it counts.

SB 344 requires schools to take notice of the most common markers of a 6th-, 7th-, 8th- or 9th-grade student who is headed for trouble: Failure of a full-year course or two semester courses; absences of more than 10 days (or equivalent aggregate class periods) per semester; or scoring "below basic" or "far below basic" on the California Standards Test.

SB 344 enables school districts that identify these at-risk students to use "supplemental instruction" funds (most commonly used for remediation after students have failed the California High School Exit Exam) to provide summer-school, after-school, before-school and/or intersession intervention in programs tailored to the needs of local students and communities.

SUPPORT

* California Acorn
* California Coalition for Youth
* California Continuing Education Association
* California League of Middle Schools
* California PTA
* California Teachers Association
* Los Angeles Chamber of Commerce
* Public Advocates

The College and Career Opportunity Act
SB 405 (Steinberg and Nuñez)

PURPOSE

Too many students in California public schools are denied opportunities for productive civic participation because their schools do not adequately prepare them to enter college or to succeed in the workplace. And too many students drop out of school because they do not perceive its relevance to their future success. Whether students choose college or career, they need rigorous preparation to thrive as adults.

Schools with high concentrations of low-income students, students of color and English language learners provide the least opportunity. In fact, 70% of schools with over 90% black and Latino student enrollment do not offer enough classes for qualified students to satisfy the minimum admission requirements to attend UC or CSU institutions after graduation. These schools also report higher numbers of underqualified teachers.

At the same time, California schools have curtailed career technical education (CTE) courses that can provide rigorous, relevant opportunities to students who choose a different path. Research shows that students are most interested in coursework that both prepares them for college and allows them to acquire skills and knowledge relevant to future careers.

Our schools should not have to choose between the college-prep "A-through-G" curriculum or CTE courses, but should offer students meaningful preparation for both college and career.

BILL SUMMARY

SB 405 promotes the graduation of all public high school students, equipped to achieve their fullest potential for college and career. The bill adopts a comprehensive solution that includes:

- ✓ **Ensuring Access to College Preparatory and Rigorous CTE Coursework.** SB 405 offers needed specificity to schools on offering all qualified students college-ready curricula and an opportunity to enroll in the coursework necessary for college admission, including instructional support to students who struggle in their college-prep and rigorous CTE coursework.

- ✓ **Assisting Low-Performing Schools to Build Capacity.** SB 405 establishes a voluntary grant program to assist California's low-performing public high schools in providing access to rigorous, college preparatory and CTE courses taught by properly credentialed teachers, as well as counseling, community college learning, and career preparation opportunities to interested students.

- ✓ **Improving Data Reporting.** SB 405 amends the existing Academic Performance Index to include reporting on student performance in college-prep and CTE courses.

- ✓ **Providing Assistance.** SB 405 provides county superintendent assistance to

schools that struggle to offer sufficient college-prep courses, credentialed and certified teachers, sufficient instructional supports, and middle school math and foreign language assignments.

✓ **Enhancing Parent Notification.** SB 405 provides that parents should be notified when their children are at risk of not meeting the minimum requirements for college admission.

SB 405 DOES NOT

- Make the A-G course sequence a graduation requirement.
- Make the A-G sequence the default curriculum.

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SUPPORTERS

- American Civil Liberties Union (sponsor)
- Advancement Project
- Applied Research Center
- Asian Pacific American Legal Center of Southern California
- California Acorn
- California Chamber of Commerce
- California Healthcare Institute
- California PTA
- California State University
- California Teachers Association
- Californians Together
- Coalition for Humane Immigrant Rights of Los Angeles
- Hispanas Organized for Political Equality (HOPE)
- Hispanic Association of Colleges and Universities
- Latino Coalition for a Healthy California
- Lawyer's Committee for Civil Rights of the San Francisco Bay Area
- Los Angeles Coalition to End Hunger and Homelessness
- Los Angeles Chamber of Commerce
- Mexican American Legal Defense and Education Fund (MALDEF)
- Parents for Unity
- Public Advocates, Inc.
- Western Association for College Admission Counseling

Student Work Permits
SB 406 (Steinberg)

PURPOSE

Studies show that school performance suffers when high school students are employed more than 20 hours per week. Yet, existing law places few restrictions on how much high school students may work, allowing 16- and 17-year-olds to work as much as 48 hours each school week.

Schools have authority to issue work permits to students. But existing law does not require schools to examine student attendance and academic records when issuing work permits. Some individual schools and districts have established solid review processes to ensure that student employment is compatible with good attendance and academic performance. School administrators say the work permit can function as a meaningful "carrot" for habitually truant students to regularly attend school and keep up with their school work.

Many schools and districts, however, do not draw the important connection between student employment and student success in school. It is time to standardize the work permit process, and make clear to students that attending and finishing high school is the job they need to focus on first.

California is in the middle of a high school attendance and dropout crisis. Fewer than 70% of our 9th graders, and fewer than 50% in some districts, go on to graduate from high school. More than 150,000 students may be leaving high school each year without a diploma.

CONTACT

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BILL SUMMARY

SB 406 ensures that student employment is compatible with school success. The bill requires students seeking work permits to consult with a teacher or counselor who must review their academic and attendance records and consider whether the proposed employment could detract from school performance.

- If a student has a grade point average (GPA) lower than 2.5 (C+), or if the student has not maintained a school attendance record of at least 90% for the current and prior semester, he or she may receive a permit for no more than 20 hours per week of work, including weekends.
- If a student has a GPA lower than 2.0 (C), or has not maintained a school attendance record of at least 80% for the current semester and the two previous semesters, no work permit may be issued.

SB 406 allows principals to consider extenuating circumstances, and maintains existing exceptions in law for student or family economic necessity. It encourages struggling students who wish to work to do so through career technical education or "work experience education" programs supervised by teachers and connected to school curriculum.

SUPPORT (partial list)

* CA Association of Supervisors of Child Welfare and Attendance (CASCWA)
* CA Catholic Conference
* CA Continuing Education Association
* CA Coalition for Youth
* CA PTA
* Independent Private Schools of CA

Professor Russell W. Rumberger - Biography

Russell W. Rumberger is a Professor in the Gervirtz Graduate School of Education at the University of California, Santa Barbara and Director of the University of California Linguistic Minority Research Institute. He received a Ph.D. in Education and a M.A. in Economics from Stanford University in 1978 and a B.S. in Electrical Engineering from Carnegie-Mellon University in 1971. He serves on the editorial board of four journals: *American Educational Research Journal, Teachers College Record, Economics of Education Review*, and the *Sociology of Education*. He conducts academic and policy research in two areas of education: education and work, and the schooling of disadvantaged students. His research in the area of education and work has focused on the economic payoffs to schooling and on educational requirements of work. His research on at-risk students has focused on several topics: the causes, consequences, and solutions to the problem of school dropouts; the causes and consequences of student mobility; the schooling of English language learners; and the impact of school segregation on student achievement.

For Immediate Release
May 1, 2007

Contact: Max Benavidez
626-799-1996
George Yatchisin
805-893-5789

California Dropout Research Project Launched to Study and Develop Solutions to the State's High School Dropout Crisis

Santa Barbara, Calif. – With California facing dramatic increases in high school dropout rates in recent years, a new University of California-based program announced today that it is launching a comprehensive statewide effort to conduct new research and synthesize existing research with the aim of shaping effective public policy to address the growing crisis.

The California Dropout Research Project (CDRP), based at the Gevirtz School at University of California, Santa Barbara, will issue a series of policy reports and briefs starting in June of 2007. The effort will stress the urgent need to develop California-focused research that takes into account the demographic realities of the state and assesses the effectiveness of intervention programs.

"The economic and social welfare of the state is at risk," said Professor Russell W. Rumberger, director of CDRP and one of the nation's leading researchers on high school dropouts. "We know little about the educational, economic and social costs of dropouts in California. That's why we need new research that looks at the unique aspects of the crisis in California."

The project will focus on four fundamental dimensions of the dropout crisis:

- Measure dropout rates with new data for precise estimates
- Examine the economic and social costs of dropouts

- Study both long-term and short-term causes
- Recommend interventions and policy responses

CDRP will issue a series of research reports and statistical briefs beginning in June. The first report will address the social costs of dropouts in California. The CDRP Policy Committee, which includes educators, policymakers, elected officials, activists and researchers, will issue its final report with a set of policy recommendations in January 2008.

The crisis is staggering in many respects. For example, based on figures from the California Department of Education there were 500,000 students enrolled in the ninth grade in 2001-02 and 355,000 who graduated four years later, meaning that 145,000 students either dropped out or did not graduate on time in the class of 2005.

According to California State Senator Darrell Steinberg (D-Sacramento), a member of the CDRP's Policy Committee and chair of the State Senate Select Committee on High School Graduation, "We need this research now more than ever. It will inform us about why so many students are dropping out and what can be done to prevent it. I believe this is the most pressing education issue for the state and this project will help us identify solutions."

CDRP's new research will tackle areas not adequately covered by existing research. The new studies will include a profile of high school dropouts and graduates that will help identify knowable characteristics of potential dropouts. Another will employ recent data to examine student and school predictors of high school graduation in California. A third new study will utilize a database of school performance indicators to identify those California high schools that beat the odds in high school graduation.

The research is being funded by $850,000 in grants from the Bill & Melinda Gates Foundation, the James Irvine Foundation, the William and Flora Hewlett Foundation, and the Walter S. Johnson Foundation.

"Far too many young people in California abandon their education, at great cost to themselves and to society," said Anne Stanton, Youth Program Director at The James Irvine Foundation. "This research will give us the first comprehensive look at the high school dropout crisis in California and focus on possible solutions to one of the most important issues facing our state."

Underlining the urgent nature of the crisis, Rumberger points out that demographic trends could increase the number of dropouts: Latinos are twice as likely as whites to dropout out of school. Latino public school enrollment will increase by 18 percent in the next ten years, while White public school enrollment will decline by 18 percent. As a result, he said, "California's dropout rate could easily increase within the decade." Another demographic with high dropout rates is English learners—the CDRP is affiliated with the UC Linguistic Minority Research Institute, which Rumberger also directs.

"The CDRP research should not only increase our understanding of why students are dropping out in California but also provide a set of interventions we hope will more effectively support all students to meet their academic goals," said Carol Rava Treat, deputy director of advocacy with the Bill & Melinda Gates Foundation.

For more information, please visit the CDRP website at: http://lmri.ucsb.edu/dropouts/

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Bill & Melinda Gates Foundation
Guided by the belief that every life has equal value, the Bill & Melinda Gates Foundation works to reduce inequities and improve lives around the world. In developing countries, it focuses on improving health, reducing extreme poverty, and increasing access to technology in public libraries. In the United States, the foundation seeks to ensure that all people have access to a great education and to technology in public libraries. In its local region, it focuses on improving the lives of low-income families. Based in Seattle, the foundation is led by CEO Patty Stonesifer and Co-chairs William H. Gates Sr., Bill Gates, and Melinda French Gates. More information is available at www.gatesfoundation.org

The James Irvine Foundation

The James Irvine Foundation is a private, nonprofit grantmaking foundation dedicated to expanding opportunity for the people of California to participate in a vibrant, inclusive, and successful society. The foundation's grantmaking is organized around three program areas: Arts, Youth, and California Perspectives, which focuses on increasing public understanding of critical issues facing the state. Since 1937 the foundation has provided more than $900 million in grants to over 3,000 nonprofit organizations throughout California. With current assets of more than $1.7 billion, the foundation expects to make grants of $75 million in 2007 for the people of California. For more information about the Irvine Foundation, please visit www.irvine.org

The William and Flora Hewlett Foundation

The Hewlett Foundation makes grants to solve some of the most difficult social and environmental problems facing society. For more information, please visit www.hewlett.org

The Walter S. Johnson Foundation

The Foundation's grants reflect our two main goals: ensuring the well being of children and youth; and strengthening public education. By doing so, we aim to assist young people in their transition to adulthood. For more information about the Johnson Foundation, please visit: www.wsjf.org

California Dropout Research Project
An Affiliated Project of the University of California Linguistic Minority Research Institute
UC Santa Barbara | Gevirtz Graduate School of Education

May 1, 2007

Project Description

A series of recent reports suggest that fewer than 75 percent of ninth graders in California graduate from high school, and the percentage in some districts is fewer than 50 percent. The social and economic welfare of the state depends on finding a solution to this educational crisis. The purpose of this project is to synthesize existing research and undertake new research to inform policymakers and the larger public about the nature of—and potential solutions to—the dropout problem in California. The project will produce a series of reports and policy briefs addressing four facets of the issue: (1) the measurement and incidence of dropping out; (2) the educational, social, and economic costs of dropouts for individuals and the state; (3) the short-term and long-term causes of dropping out; and (4) proven interventions. Drawing on this information, a policy committee composed of researchers, policymakers, and educators will then draft a state policy agenda to improve California's high school graduation rate. The project will run for 14 months beginning December 1, 2006 and is directed by Russell W. Rumberger, Professor of Education, UC Santa Barbara (*dropouts@lmri.ucsb.edu*). The project is being funded by The Bill and Melinda Gates Foundation, The William and Flora Hewlett Foundation, The James Irvine Foundation, and the Walter S. Johnson Foundation. For more information, visit the project website at: *www.lmri.ucsb.edu/dropouts/*.

California Dropout Research Project Policy Committee

Jean Fuller
Assemblywoman, Assembly District 32
California State Assembly

David Gordon
Superintendent of Schools
Sacramento County Office of Education

Marqueece Harris-Dawson
Executive Director
Community Coalition

Rowena Lagrosa
Superintendent of Schools
Moreno Valley Unified School District

Lorraine McDonnell
Professor, Political Science
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Gary Orfield
Professor, Education, Law, Political Science, and Urban Planning
Co-Director, Civil Rights Project
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California Dropout Research Project Activities and Reports

Research Syntheses

The Social Costs of Dropouts in California
by Clive Belfield (*Queens College*) and Henry Levin (*Teachers College*)

Why Students Drop Out of School
by Russell W. Rumberger (*UC Santa Barbara*)

Existing Incentives and Impediments to Improving Graduation Rates in California
by Tom Timar (*UC Davis*)

Proven Interventions for Reducing Dropouts
by Mark Dynarski (*Mathematica*)

The Costs and Benefits of Reducing Dropout Rates in California
by Henry Levin (*Teachers College*) and Clive Belfield (*Queens College*)

Improving California's Data System for Measuring Dropout and Graduation Rates
by Georges Venez (*RAND*)

Career and Technical Education as a Strategy for Improving High School Graduation Rates in California
by David Stern (*UC Berkeley*)

Alternative Pathways to High School Graduation, Further Education, and Workforce Preparation in Other Countries
by Stephen Lamb (*University of Melbourne*)

Middle School Reform as a Strategy for Improving High School Graduation Rates
by Jacque Eccles (*University of Michigan*)

New Research Studies

Profiles of High School Dropouts and Graduates in Los Angeles Unified School District
by Jeannie Oakes (*UCLA*)

Early Predictors of High School Dropout
by Michal Kurlaender (*UC Davis*) and Sean Reardon (*Stanford*)

Student and School Predictors of High School Graduation in California
by Russell W. Rumberger (*UC Santa Barbara*)

California High Schools That Beat the Odds in High School Graduation
by Tom Parrish and Miguel Socias (*AIR*)

What's Motivating Youths in Differing Schools?
by Bruce Fuller and Margaret Bridges (*PACE*)

Follow-up Study of Students Who Did Not Pass the California High School Exit Exam
by Michael Furlong, Shane Jimerson, and Russell W. Rumberger (*UC Santa Barbara*)

ITEM #~~_____~~#25

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Ridgecrest Charter School: Consider and Take Action on Material Revision of Charter.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) consider and take action to approve a request by the Ridgecrest Charter School (RCS), an SBE-authorized charter school, to materially revise its charter petition as originally approved by the SBE (as the school's authorizer).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Pursuant to California *Education Code (EC)* Section 47605(j), petitioners for a charter school that has been denied at the local level may appeal to the SBE for approval of the charter, subject to certain conditions. To date, the SBE has approved thirteen charter petitions on appeal, seven of which are currently operating under SBE oversight (which is carried out by CDE staff). RCS is one of the seven charter schools currently operating under SBE oversight.

The SBE has delegated to the CDE its obligations to oversee these schools under the terms of a Memorandum of Understanding (MOU) for school oversight, which has been entered into with each of the SBE approved charter schools. According to the terms of the MOU, material changes to the charter may not be made without prior SBE consideration and approval. "Material changes" is defined to include, but not be limited to, the addition or deletion of an educational program, mission, or vision, and the addition of a nonclassroom-based program, if the charter was originally approved as a classroom-based program.

SUMMARY OF KEY ISSUES

RCS is in its sixth year of operation, and was among the first charter schools to be approved by the SBE. RCS was initially developed out of a desire to provide an alternative to the traditional K-8 schools in the Ridgecrest area; the school's charter, as

SUMMARY OF KEY ISSUES (cont.)

approved by the SBE, proposed to provide a Core Knowledge curriculum. However, the school no longer maintains a coordinator position on site and no longer sends its teachers for formal Core Knowledge training. With the implementation of the California content standards, the school has focused on direct instruction and "back to basics" skills, and has focused its professional development towards that end to target and improve its academic performance. Departure from the formal Core Knowledge program was made in large part to address the fact that the school has a significant proportion of beginning teachers who need a different type of focus and support to improve academic achievement. (RCS continues to face challenges in recruiting and retaining experienced teachers, given its relatively remote geographic location.) The departure from a Core Knowledge curriculum represents a material revision to the school's charter, which will require approve by the SBE.

Review of RCS' Academic Performance Index (API) over the past four years reflects a total drop of 63 points in the base scores since 2003 and corresponding declines in both the statewide ranking (from a 7 to a 4) and the similar schools ranking (from a mid-range of 5 or 6 to a 1). RCS has initiated a plan (required by the MOU) to improve academic achievement by incorporating the use of state-adopted instructional materials school-wide, and is focusing targeted professional development accordingly.

RCS has requested a material revision to its charter to reflect the following:

1. The school's departure from a Core Knowledge curriculum, and incorporation of a standards based curriculum and use of state-adopted instructional materials.

2. Authorization for RCS to offer, on a case-by-case basis, the use of short-term independent study contracts for students who receive prior approval for absences due to travel or extended illness, of three or more days in duration. Any such use of independent study will be limited to occasional, incidental instances of extended absences, and will be fully compliant with independent study law and regulations.

3. Incorporation of the newly adopted Charter School Closure Procedures regulations.

The CDE recommends that the SBE approve the requested revisions to RCS' charter. The proposed revisions to the charter are reflected in a "track changes format" in the attachment to this item.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the material revision to the RCS charter would have little (if any) effect on the total amount of state local assistance funding to public schools. To the extent

FISCAL ANALYSIS (cont.)

students attend RCS, the funding to support the school is merely redirected from other public schools. State costs are essentially the same.

ATTACHMENTS

Attachment 1: Copy of the Proposed Revisions to Ridgecrest Charter School's Charter (39 Pages)(This attachment is not available for Web viewing. A printed copy is available in the SBE Office.)

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RIDGECREST CHARTER SCHOOL

A Charter School Proposal

Presented to:

The State Board of Education

Prepared in compliance with the terms, conditions and requirements of California Education Code 47600 et seq.

Submitted by the Ridgecrest Charter School (A California Non-Profit Public Benefit Corporation) in cooperation with parents, teachers, staff, community leaders and other concerned citizens of Ridgecrest, California.

6/7/07

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Executive Summary

The California Charter Law is intended to provide an environment where accountability, flexibility, innovation, parental choice, parent-teacher involvement and public-private partnerships can work together to provide a better future for our children. As Education Code 47601 relates: "It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

a. Improve pupil learning.
b. Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.
c. Encourage the use of different and innovative teaching methods.
d. Create new professional opportunities for teachers including the opportunity to share responsibility for the learning program at the school.
e. Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.
f. Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.
g. Provide vigorous competition within the public school system to stimulate continual improvements in all public schools."

Vision

Ridgecrest Charter School's vision is based on the reality of our global economy, and an appreciation for the potential impact of technology and the opportunity and challenges of social and economic diversity. We seek to offer an education that provides students with the tools necessary for survival and achievement in the 21st century. Our children deserve the highest quality education that will enhance their academic and developmental potential, as well as prepare them for the future. The charter bill is intended to provide an environment where accountability, flexibility, innovation, parental choice, parent teacher involvement, and public-private partnerships can work together to provide a better future for our children. This environment will be marked by excellence. Excellence is not an outcome to be wished for but a standard to be maintained. In this environment, diversity will be celebrated. The community of

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the future is a world community and the skill of communication across cultural barriers is essential. This requires the ability to see difference as a reality to be celebrated.

In short, the key cornerstones of the school are:

1) academic achievement – the ability to read, speak, write, and calculate with clarity and precision;
2) the ability to demonstrate good citizenship through self-control, respectfulness, and kindness especially with respect to teachers and others;
3) a high self-esteem based on academic success; and
4) preparation to confidently address future academic challenges.

Mission

To provide a comprehensive educational system that provides all children with the tools necessary for leadership and service throughout the 21st century, students will become literate, well-prepared life-long learners through participation in a (primarily) teacher-directed, phonics-based, highly disciplined core knowledge program. Meaningful, regularly assigned homework, after school learning opportunities and recognition for achievement will contribute to student success. A learning environment will be established that develops leadership, academic excellence in reading, writing, and mathematics, and an understanding and appreciation of computers, science, social studies, the arts, physical fitness and character development. The student will further develop an understanding and appreciation of service to society and be provided the motivation and skills necessary for life-long learning. Grade level proficiency is seen as a key to promotion to the next grade and to eventual college and workforce readiness.

We will constantly measure student and staff achievement and make necessary improvements on a timely basis. Financial and human resources will be effectively and efficiently utilized to maximize student performance and provide a benchmark of excellence for replication throughout the county.

General Description

In September 2001, a new charter school in Ridgecrest began providing a rigorous education to children. This school is known as the Ridgecrest Charter School. The school currently serves approximately 230 students at one site, in kindergarten through eighth grade, with twenty

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students in each kindergarten, first, second, and third grade classroom and 28 students in each classroom of grades four through eight (with instructional aide support as needed). Within the life of the renewed charter, enrollment is projected to reach approximately 500 students in grades K-8, with the same student distribution based on the continuation of the current class-size reduction funding.

For the duration of the second charter period, the Ridgecrest Charter School plans to continue to offer activities and adult supervision Monday through Friday from 7:45 a.m. to 4:00 p.m. A goal during this second charter term will be to expand the program to include before and after school day care, such that the hours of operation would extend from 7:00 a.m. to 5:00 p.m. Instructional minutes offered by the charter school will exceed the number of minutes required by state law and will therefore average more than 181 days of instruction. An additional twenty days will be calendared for Special Education students where necessary. It is planned that the instructional day will be from 8:00 a.m. to 3:00 p.m. for Grades K through 8, with clubs, extra curricular activities, extended day care and a variety of tutorial opportunities available both before and after core instruction.

The Ridgecrest Charter School will continue to provide a curriculum, learning style-evaluation, management process, and staff development, which will be constantly monitored and changed when necessary to maximize our effectiveness. The school will continue its balanced program for the new millennium that develops minds, bodies and spirits. An academic program that will integrate four areas of literacy in a curriculum will continue to be taught as a team approach: language, technology, life sciences, and life skills. In addition, the program will provide physical education, structured recess, health, and a nutritious meal program when available. Programs that develop emotional and social life skills training through fine arts, community service and environmental focus, including targeted counseling services and conflict resolution programs will be offered.

Ridgecrest Charter School students will acquire within five years:

- reading, writing, verbal and math skills that meet or exceed those expected of students throughout the state of California;
- ~~a base of core knowledge common to well-educated Americans;~~
- emotional maturity, including empathy and the willingness to be responsible for personal actions;
- a clear understanding of the responsibilities and rights concerning their schoolmates, staff, faculty, family members, community, country, and world;
- challenges for students in areas of critical thinking and individual learning opportunities where leadership, business principles, and community service will be incorporated into the subject matter.

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Student Population and the Faculty Team

Students can come from any school in the State but preference will be given to students residing in the Indian Wells Valley. The Ridgecrest Charter School faculty team will be role models for lifelong learning and professionalism. The faculty team will be held accountable for ensuring that Ridgecrest Charter School students achieve high standards. The faculty team will have the freedom and responsibility for supporting the development of all academic programs.

The Ridgecrest Charter School and the operations staff of the Ridgecrest Charter School (A California Non-profit Public Benefit Corporation) will set new standards for efficient and effective management, freeing more resources for the education of children.

ELEMENT ONE
Educational Program

The Ridgecrest Charter School is committed to providing a successful, safe, and challenging educational experience, while promoting the joy, dedication to, and importance of learning for all of our students. Ridgecrest Charter School welcomes, as space and resources are available, all California residents legally able to attend a California public school in grades K – 8. Our educational program is committed to academic, social, civic, and character development. Our current enrollment is approximately 230 students; we anticipate that the enrollment will reach approximately 500 students at the end of this second charter term.

High academic standards will be utilized when implementing the curriculum and instruction. Curriculum is research-based and student-focused to develop each student's full potential, while recognizing his or her uniqueness. The school will align its curriculum and instruction with state academic content standards. Our high expectations will result in literate, self-reliant, and confident learners. Homework will be regularly assigned Monday through Thursday. Students will be required to comply with a dress code as stated in the Parent-Student Handbook. Accurate and easily understood evaluation procedures, ~~including numerical grades for grades k-3, and letter grades in grades 4-8~~ reflecting actual achievement, will be employed. It is our goal to provide every opportunity to students to achieve one month's worth of growth for one month's time in class, irrespective of their grade level at the beginning of the year. For students in Special Education, their growth expectations will be reflected in their Individualized Education Plan. A detailed explanation is included in Element Eight.

The educational program includes an integrated curriculum incorporating a variety of learning/teaching styles and is assessed regularly. ~~We have undertaken the incorporation of the~~

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~~Core Knowledge Curriculum into the State Frameworks and Content Standards for basic subject areas and will continue our incorporation of this program. Core Knowledge also includes literacy, technology, arts, community service, and self responsibility. Small class size,~~ Peer tutoring, cross-age generational learning, community mentors, tutors, and experts teach students at their own rate in order to individualize instruction. We celebrate diversity and build on the strengths of each member of our school community. Learning applications will occur in real work and micro-society settings.

The school is aware that a "reasonably comprehensive description" of the "educational program" is required by Education Code section 47605 (b)(5)(A).

The goals of Ridgecrest Charter School are:

- to provide students with practical knowledge and skills that will promote competence, a life-long curiosity and self-motivation for learning in an ever-changing world;
- to provide students with the necessary tools to maximize their ability to achieve high scores on norm-referenced state and national tests;
- to teach and motivate students to seek understanding of the world around them and to apply this understanding to the broader world contexts of career, family and civic responsibility;
- to help students learn to reason, research, analyze, apply, elucidate and extrapolate for preventive problem-solving and goal setting/attainment;
- to provide a culture that will learn by doing, accompanied by the willingness and the energy to keep asking the questions that will generate the next best alternative;
- to regularly measure student and staff performance and to provide information for attaining higher achievement;
- to regularly measure parent and school community satisfaction;
- to enable pupils to become self motivated, competent, and life-long learners.

What it Means to be an Educated Person in the 21st Century

The purpose of education today is to prepare people to lead happy and productive lives. An educated person will:

- have a strong understanding in core areas of math, reading, writing, and science;
- be able to understand and use computers and adapt to new technologies as they become available;
- appreciate the fine and performing arts;
- be knowledgeable of western and world cultures both present and historic;

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- be able to work collaboratively with others;
- be a complex and creative thinker;
- be a problem solver and an independent decision-maker;
- be a lifelong learner, capable of using existing knowledge and skills and capable of learning new skills when necessary;
- will understand that every action has an impact and will recognize the impact of his or her behavior on others and the environment;
- be self-assured, articulate, accepting of diversity and compassionate, and use common sense.

Students, staff, parents, and community members see themselves as teachers and role models.

We establish a learning community where:

- learning needs are met,
- resources are provided,
- questions are answered, and
- potentials are unlocked for all learners.

In designing a facility to invite learning, architecture and construction represent our student-centered focus. Community facilities were remodeled and renovated to meet this end. The current RCS facility is an enlarged prior school site, with ~~six~~ portable buildings added along with ~~three~~ playground areas, landscaping, a perimeter fence, computer lab, and a library. The playgrounds, landscaping, and fencing were donated and installed entirely by local businesses and parents. The library books were all donated by parents and a complete library system set up by parents and community volunteers. This community creativity allowed for access to resources which established a pathway to growth. A local identity was maintained while encompassing a global perspective. The school model is “in-seat” (students at the school site in a traditional school program). Where additional staffing for expanded programs operating outside of traditional school time is needed, such staffing will be supplied.

The Ridgecrest Charter School educational program is based upon the understanding that learning best occurs:

- when children feel safe, cared about, respected, and are encouraged to be law abiding and productive citizens;
- as a result of positive attitudes, a supportive environment, and high expectations from teachers and parents;

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- when parents participate in school and are taught how to help their students with their schoolwork;
- when teachers are highly qualified, motivated, and love their work;
- when teachers know how to reassure students and treat them fairly;
- in small classes and through curriculum that is exciting, challenging, and comprehensive;
- when students are invited to apply their knowledge and encouraged to look at all sides of issues;
- when all learning styles are acknowledged and addressed;
- in an orderly environment;
- when students and parents understand what is expected of them and satisfy those expectations.

Special Education students will be afforded educational opportunities in accord with their Individualized Student Plan and in accord with existing policies of the State Board of Education. At present, the school is a Local Education Agency within the Kern County SELPA.

The Ridgecrest Charter School recognizes that access to and utilization of technology is essential to preparing students for secondary and post-secondary education as well as for productive placement in the business and professional world. We realize as well that access to the information highway for many families, and for their school-age children, is often limited. To this end, the comprehensive Technology Plan was developed which includes the following:

- acquisition of appropriate software, hardware, and routing access to the information highway;
- a management plan that encourages daily access to computers;
- course competencies in computer literacy;
- utilization of technologically-advanced software to supplement the core curriculum and promote the practice of higher-level thinking skills;
- parent access to literacy courses and a management plan to promote after school at-home use by students while providing an opportunity to strengthen the role of parents in homework assistance and class-work skill reinforcement for the students as they return the next day to school; and
- appropriate safeguards to ensure access to educational information only.

Evaluation of the Technology Plan will include parent review, staff analysis, and assessment by the school's advisory boards. Business community review of skill-based competencies will be encouraged—mindful as we are that our students must be prepared to be "workplace ready."

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In the interest of maintaining individual student academic progress and minimizing disruption to the educational program as a result of an extended student absence, Ridgecrest Charter School will consider, on a case-by-case basis, the use of short-term independent study contracts for students who receive prior approval for absences due to travel or extended illness, of three or more days in duration. Any such use of independent study will be limited to occasional, incidental instances of extended absences, and will be fully compliant with all applicable independent study laws and regulations. The Ridgecrest Charter School governing board shall develop board policies and master agreements in accordance with Education Code Section 51745 et seq. and implementing regulations, and shall ensure, through consultation with Ridgecrest Charter School's independent auditors, that all forms and procedures are in conformance with independent study law requirements.

ELEMENT TWO
Measurable Pupil Outcomes

Business leaders, politicians, community members, and students themselves often express concern that school today bears little resemblance to what students will be expected to do in the workplace of tomorrow. Ridgecrest Charter School standards represent the skills necessary for success in our rapidly changing world. The following Ridgecrest Charter School standards are presented through a teaching/learning environment that is based on real world experiences:

1.) Literacy standards which include:

- basic reading, writing, listening, and speaking;
- listening and communicating orally to express opinions and gain new information;
- ~~speaking, reading, and writing in two or more languages - as a second language program (Spanish or Latin) will be added as a co-curricular program within the life of the charter;~~ an additional language program will be offered as funds and resources allow;
- utilizing technology as a tool for communication;
- dealing effectively with diverse perspectives;
- viewing different cultures as a strength;
- reading as a lifelong tool for growth;
- utilizing the scientific process for new learnings and new questions;
- utilizing reasoning and logical thinking in activity-based exploration of mathematical concepts and problems;
- writing as a process to effectively communicate knowledge and express ideas, interests and values;
- understanding culture, history, geography, conflict resolution, economics, and social political events/issues.

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It is the goal for graduates of this charter school that they demonstrate appropriate age or grade-level mastery of the following core academic skills as identified in the State Framework and Content Standards:

- Mathematics – students will develop abilities to reason logically and to understand and apply mathematical processes and concepts, including those within arithmetic, algebra, geometry, and other mathematical subjects.
- Language Arts – students will demonstrate strong reading, writing, listening, speaking and presentation skills, with communication skills appropriate to the setting and audience – comprehending and critically interpreting multiple forms of expression, including literature from various time periods and cultures.
- Science – students will successfully utilize scientific research and inquiry methods to understand and apply the major concepts underlying the various branches of science, which may include physics, chemistry, biology, ecology, astronomy, and earth sciences.
- History and Social Studies – students will understand and apply civic, historical, and geographical knowledge in order to serve as citizens in today's world of diverse cultures.

2.) Character and ethics standards which include:

- promoting responsibility for one's actions and deeds, self-esteem, sociability, collaboration, integrity and honesty;
- demonstrating confidence, empowerment, self-discipline and resiliency;
- benefiting from failures and making them successes;
- working collaboratively as a team player;
- acting respectfully and with responsibility for one's own actions;
- having the ability to facilitate and build consensus in problem solving;
- learning by doing and applying;
- demonstrating a positive vision for the future; and
- taking risks by understanding and utilizing the learning environment.

3.) Balanced life standards which address:

- participation in fitness and wellness as a life-long habit while utilizing all of the intelligences;
- involvement in the community;
- demonstrating wellness in life style;

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- being committed to academic excellence;
- appreciating and utilizing the arts;
- demonstrating ethical responsibility in decision-making;
- applying learning as a never-ending process;
- thinking globally and acting locally for the benefit of the community; and
- understanding how social, organizational, environmental and technological systems work together.

Progress towards meeting the "character and ethics standards" and "balanced life standards" will be measured by student, staff, and parent surveys.

It is clear that each of the skills identified above must be seen in the context of integrated learning opportunities, utilizing critical thinking skills, technology, creative expression through the arts, study skills and habits (including initiating and completing a project), social skills (including conflict resolution), and essential life skills (financial management, job readiness, and higher education continuance skills).

In order to concretize the school's commitment to offering a co-curricular second language program, the following process of implementation is identified:

- as a part of the annual budget process (January-March 2005), and upon confirmation that General Purpose and Categorical entitlement funding steams are in place, the school administration will present to the charter school Board a recommendation for co-curriular second language program funding as permitted by the annual budget review;
- upon confirmation of budget ability, school administration will advertise(April-June) for an instructor or instructors whose employability qualifications meet the requirements or the State charter law and, if applicable, the employability requirements of NCLB;
- the parent community shall be contactea and surveyed (May-June) to determine the interest level of support and time availability for program participation;
- the school administration will present to the charter school Board (June) the results of the employment outreach and parent survey process;
- at the direction of the charter school Board (July-August), and upon verification of fiscal ability, parent support,master scheduling, and instructor availability, the program will commence no later than the third week of school each year.

School Outcomes

The Ridgecrest Charter School educational program will be based on the following elements:

- a vision, mission and operational business plan that focuses on student learning;

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- academically rigorous well-focused basics in core subject curricula;
- effective and engaging instruction with a commitment to utilizing differing teaching approaches to meet the needs of different learning styles;
- incentives that increase and encourage collaboration among teachers;
- professional development that puts skills into a context consistent with the overall school mission;
- autonomy that allows the charter school to develop and implement a process of change tied to high standards;
- parent and community involvement in and support for school programs;
- regular measurement of progress toward achieving both student and staff performance goals;
- a community communication process detailing student and school performance; and
- an effective and efficient business process that ensures maximum utilization of private and public resources (both human and financial).

In addition to individual pupil outcome goals, the Ridgecrest Charter School has set high standards for the school itself and its board, staff, and parents.

- The charter school follows a curriculum that emphasizes direct instruction methods for teaching. Examples of the types of texts used include Open Court Phonics and Saxon Math. Although the school has elected these text series, the right is reserved to use any other sequential series deemed comparable or better consistent with acceptable use under California charter school legislation or regulation.
- The school uses a range of assessments to determine student progress, and will participate in the Standardized Testing and Reporting (STAR) Program, including the California Assessment of Applied Academic Skills when it is phased in. The school will review the components of other assessment systems, and consider administering additional standards-based assessments (e.g., Literacy Assessment Portfolios). In reviewing the accountability system, the school recognizes that grades, STAR scores, the Literacy Assessment Portfolio, and redesignation rates for English Language Learners are parts of the system. At a minimum, the school will be held accountable for gains on STAR testing. Additionally, growth (pre/post) within the school year may be measured by testing utilizing the Iowa Test of Basic Skills (ITBS) instrument or a similar assessment tool. Based on the outcome of the student performance assessment, curriculum changes may be made and/or curriculum augmentation may be implemented. This cycle of performance assessment and curriculum analysis/modification is performed on a yearly basis and shall remain consistent with the state accountability targets as defined by the California Academic Performance Index.
- The school will demonstrate progress in the aggregated results of the pupil outcomes listed above.

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- The school will demonstrate student improvement on standardized test scores that compare favorably with schools that have similar student populations (e.g., race, gender, socio-economic status).
- The school will meet its targeted growth rate for the Academic Performance Index.
- The school will encourage a higher rate of parent participation (including parent conference attendance, parent meeting attendance, and parent volunteer presence) than similar schools in Kern County where such data is available.
- The school will provide new professional opportunities for teachers and create opportunities to tap the expertise and experience of qualified professionals (AB 1242) previously excluded from the public school system.

ELEMENT THREE
Plan for Evaluating and Reporting Pupil Performance

The Ridgecrest Charter School is accountable to the State Board of Education for the progress of students in meeting challenging learning standards. In addition, the entire learning community assumes responsibility for the educational success of all students. We believe that a student's success equals our success. Academic standards are measurable and measured. This includes pre- and post-testing as well as longitudinal data, portfolio and performance-based assessments, writing on demand, essay exams, oral presentations of reading, and standardized tests as designated by the publisher. The school utilizes ITBS and STAR assessments to measure student mastery of standards.

The Ridgecrest Charter School complies with all county and state assessment requirements. In conformance with state law, the school will administer those assessments required by the State's Standardized Testing and Reporting system and will administer the California English Language Development Test. In addition, the school will administer the Iowa Test of Basic Skills on a pre and post basis each year in order to establish an additional measurement of assessment keyed to national comparisons. Progress will also be measured on an ongoing basis so that parents and educators always know where students are in their educational program and can make appropriate choices and set goals each quarter to ensure student's success. This reporting and goal setting process is formalized in a Quarterly Learning Contract based on the Individualized Student Plan. This contract and its regular benchmark reviews (at least every six weeks) will include academic GPA, academic credits, report cards, citizenship grades to assess improvement in attitude and behavior, and attendance information. The school is financially responsible for the cost of the required assessments and, should the State Board of Education receive funding for assessment based on charter school students, this funding will be provided to the charter school.

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Each classroom teacher is provided with information to assess learning, analyze results, develop improved teaching strategies, and shape instruction. Daily instruction provides ongoing feedback through observation, projects, criterion referenced tests, open-ended tasks and writing samples.

To assess the school outcome goals listed above, the Ridgecrest Charter School measures progress on individual student outcomes and charts progress over time. To assess school performance, we:

- compare Ridgecrest Charter School standardized test scores to standardized test scores for schools in the state and for similar schools – RCS students will meet or exceed the annual growth measurements expected under the Standardized Testing and Reporting system and the Annual Yearly Progress targets identified under the federal No Child Left Behind Act;
- compile annual Ridgecrest Charter School attendance records and compare to state attendance statistics utilizing the California Department of Education approved attendance reporting system – RCS students will exceed the comparable school attendance results by a minimum of 5% annually.

The Ridgecrest Charter School consults with outside evaluators ~~(from the Core Knowledge Foundation or other acknowledged evaluative organizations)~~. The evaluation includes data from progress on school standards, results of the STAR testing, other standardized tests, and other measures of student performance, such as competitions.

In accord with Education Code section 47607 as amended by Assembly Bill 1137, and effective January 1, 2005, RCS will, at a minimum, meet at least one of the following criteria for renewal review:

1. attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years;
2. ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years;
3. ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years;
4. in consultation with the State Board of Education through the California Department of Education, determine that the academic performance of RCS is at least equal to the academic performance of the public schools that RCS students would otherwise have been required to attend, as well as the academic performance of the schools in the Sierra Sands Unified School District, taking into account the composition of the pupil population that is served at RCS.

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Each year the Ridgecrest Charter School surveys parents on a variety of indicators of parent satisfaction, staff relationships, and student progress. Results of the survey are published in the school newsletter.

The Ridgecrest Charter School, as the petitioner, holds itself accountable for student progress. Staff, as the employees of the charter school, are accountable to RCS for student performance improvement.

ELEMENT FOUR
Governance and Operation

Legal

The Ridgecrest Charter School shall be a public charter school within Kern County operating under the jurisdiction of the State Board of Education. Its operational management shall be the responsibility of a non-profit organization which shall operate within the terms and conditions specified in this petition. In the event that the State Board of Education revokes the charter for the Ridgecrest Charter School, the School will retain the right to secure legal review for approval to act as a charter school following the exhaustion of all available remedies.

The Ridgecrest Charter School will be non-sectarian in its programs, admissions policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any student on the basis of race, ethnicity, national origin, gender, or disability, or any other impermissable discrimination.

The school will comply with all federal, state, and local laws, regulations, and ordinances that are applicable to California charter schools, including those related to zoning, occupancy, construction, health, and safety. The school will secure general liability insurance, workers compensation, and unemployment insurance.

Governance

The Ridgecrest Charter School will be governed by its charter board, understanding that the Ridgecrest Charter School (a California Non-Profit Public Benefit Corporation) has a legal fiduciary responsibility for the well-being of the school. As such, and with particular reference to the Education Employment Relations Act, Ridgecrest Charter School, as the applicant for this charter, will set the terms and working conditions for all employees and will do so consistent with state and federal law.

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The Charter Board will have six members. The composition includes a community member (not necessarily a parent), a person recommended by staff not employed by the school nor receiving any direct or indirect financial benefit from relationships with the school, and three parent representatives. Per Education Code 47600 et seq., the State Board of Education may designate a representative to the Board of Ridgecrest Charter School who shall be a voting member. This group will represent a broad cross-section of the school community and the school's neighboring community. The school will be administered in a nonsectarian manner.

The Charter Board will be responsible for the following:

- the general policies of the school;
- employment, discipline, and release of school personnel;
- the school's budget;
- receipt of funds for the operation of the school in accordance with the charter school laws;
- solicitation and receipt of grants and donations consistent with the mission of the school;
- reviewing the school's personnel policies and receiving from the Director reports relative to their implementation, such policies to be consistent with any applicable laws;
- confirming that all other responsibilities provided for in the California Corporations Code, the Articles of Incorporation, Bylaws, or this charter necessary to ensure the proper operation of the school are being carried out; and
- reviewing operations reports from the Director and audit reports from RCS.

Board members may be renominated on an annual basis. Elections will be held in May on an annual basis. Terms for board members will be on a staggered basis, thus preserving continuity on the Board and allowing for leadership transition as well.

It is understood that the State Board of Education shall have the right of access to all charter school records to carry out their oversight responsibilities, and that the records of the charter school are subject to the California Public Records Act. Annual training for Board members on the Ralph M. Brown Act shall be conducted in a manner approved by the State Board of Education consistent with procedures identified by the County District Attorney's Office and will be scheduled during the first three months of each school year.

Parent Advisory Council

The Ridgecrest Charter School will have a site advisory council of school parents. The advisory council will advise the RCS board through the Director on the operations of the school, staff, teachers, and students. It will review and provide input on curriculum, facilities, safety, grants, technology, and community relations.

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To the maximum extent permitted by law, the State Board of Education will not be liable for the actions of RCS.

Ridgecrest Charter School will be responsible for:

- the development and execution of an operational business plan that focuses on student learning;
- providing professional development that puts skills into context consistent with the overall school mission;
- parent and community involvement in and support for school programs and change efforts;
- regular measurement of progress towards achieving both student and staff performance;
- effective human resource models for career and compensation;
- a community communication process detailing student and school performance; and
- an effective and efficient business process that ensures maximum utilization of private and public resources, both human and financial.

RCS will act as its own fiscal agent to the fullest extent of the law. RCS will see to it that all provisions of charter school legislation will be followed. RCS will monitor the budget monthly. An external auditor will be contracted with to assure standards of fiscal responsibility.

Parent Involvement

One goal of this school is that of empowering parents as educational partners. Parents should know that their voice and participation at the school influences the development of the total school and its components. Parents will have the opportunity to participate in a variety of meaningful ways at the school site and their presence on campus and assisting teachers in the classroom is most important.

In order to ensure significant parent involvement, the school will have a standing Parent Teacher Organization (PTO) which is open to all parents and staff, a Parent Center, and significant outreach efforts.

Parents will be provided the opportunity to sign a contract stating that they will attend the new parent orientation meeting and donate at least four (4) hours of service monthly per family. A service hour form will be sent home with the school newsletter each month for parents to complete and return to school. The aim of this requirement is to ensure that all families are informed and actively involved in the school and to provide assistance to the school.

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Parents will be encouraged to become active in developing their child's learning plan and the school's curriculum, evaluation process, and other programs. Depending on facility space, a Parent Center will be established. It will be used for parent education meetings, a resource center, and parent organizing efforts for school improvement and community leadership. Outreach efforts will eventually include newsletters, Internet and E-mail communications, town meetings at the school, and meetings at community centers and neighboring churches.

These outreach activities will be formulated into a "Parents As Integral Resources" (PAIR) Program and published to the parent community by September of each school year. The PAIR Program will annually identify:

- the times and dates of all parent meetings and all Board meetings for the year;
- the expected schedule of parent conferences;
- special classroom and school-wide events to be held during the year;
- the process for time and labor donations to the school;
- the process for "phone tree/e-mail communication" for all classrooms;
- progress towards and access to a Ridgecrest Charter School website;
- the procedure for verifying parent participation at all school and school-related events to enable families to meet their annual hourly participation goals.

Parents will be encouraged to take advantage of Labor Code Section 230.8 which bars discharge or discrimination against an employee for taking time off to visit a child's school or for using vacation, personal leave, compensatory time off or time off without pay (up to eight hours in any calendar month, up to forty hours each school year).

ELEMENT FIVE
Employee Qualifications

Employees are reflective, to the extent possible, of the diversity of the community in gender and ethnicity. All parents, community members, and staff see themselves as teachers and role models. Because of their love for children, employees view themselves as dedicated staff members willing to work beyond their normal scope of hours and duties. They are committed to developing the social, civic, character, and academic development of each student. Employees are risk takers with a passion for lifelong learning in a positive environment where they can be viewed as coaches and facilitators of learning.

Selection and appointment of Ridgecrest Charter School's staff members shall be the exclusive prerogative of the Ridgecrest Charter School. Persons who work at the charter school shall be

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selected, employed, and released by the charter school which will set the terms and conditions of employment.

The Ridgecrest Charter School will not discriminate against any applicant on the basis of his/her race, creed, color, national origin, age, gender, disability, or any other basis prohibited by law. The RCS board will be involved in the selection process for the Director and, with the Director, in the identification of staff. RCS, at the conclusion of the process, shall act as the legal contract entity.

Administrator's Qualifications

The Director at the Ridgecrest Charter School should possess leadership abilities and a comprehensive educational vision that is consistent with the school's mission and educational program. In addition, the Director should possess skills in hiring and supervising excellent teachers, technological and data-analysis experience, and if possible, business experience. An administrative credential is encouraged but not required. A bachelor's degree is required as a minimum. The Director must hold at least an emergency teaching credential in order to be employed. A representative team of parents and staff, with the RCS board, will interview candidates for Director, with the final selection made by the RCS board.

Teachers' Qualifications

The most important qualities for our teachers are:

- caring about our students;
- familiarity with or willingness to be trained in the school's curriculum sequence and learning styles;
- a demonstrable effectiveness in teaching; and
- a willingness to work hard and to take responsibility and exercise leadership for the school as a whole.

Specific qualifications include:

- possession of a California Teaching Credential, or holding a Pre-Intern or Intern Credential;
- dedication to putting in time, energy, and effort in developing the school's program;
- commitment to working with parents as educational partners;
- willingness to become a learner as well as teacher/coach in the school;
- knowledge or willingness to become knowledgeable about the developmental needs of our students;

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- sensitivity to social as well as academic needs of the students;
- willingness and ability to plan cooperatively with other teachers;
- willingness to be trained in the use of different curriculums and learning styles in the classroom;
- willingness to be an active participant in staff meetings;
- willingness to work closely with the Student Study Team Coordinator by providing any information regarding a student's behavior change, attitude, and/or classroom performance;
- willingness to take a leadership role in some aspect of the school's development; and
- a strong knowledge of their personal strengths and weaknesses, and a willingness to continue education through additional courses and training, workshops, seminars, and staff development.

All other staff members shall meet the basic criteria for employment as identified by the board and shall possess those qualities held by reference to "employees" above. All staff will understand, in dress and demeanor, that they are role models for students. The best individuals are sought – understanding that those who desire to work in a public charter school should display a love for learning and exhibit joy in their task. All staff members, including teachers, will be interviewed by a team including the Director, parent and staff representatives, and the RCS board.

Instructional support staff, meeting all other legal prerequisites for employment (e.g. fingerprint and TB clearance, I-9 verification, etc.), may be non-certificated but will not, in accord with the law, serve as the "teacher of record" who is responsible for overseeing the student's academic progress and who will monitor all grading and matriculation decisions as specified in the school's operational policies.

For purposes of the Education Employment Relations Act, all employees are the employees of the charter school for public employment purposes and are not the employees of the State Board of Education.

ELEMENT SIX
Procedures to Ensure Health and Safety of Pupils and Staff

Procedures to ensure the health and safety of staff and pupils will remain the same as those currently used by Kern County Public Heath. These procedures shall include but not be limited to fire safety, earthquake safety, other emergency situations, vision, hearing and scoliosis screening, immunizations, child abuse reporting, blood-borne pathogen procedures, policies relative to the administration of prescription drugs, adherance to conditions necessary to create

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a drug, alcohol, and tobacco free workplace, responsible supervision and liability, etc. Applicable federal and state laws relative to health and safety will also be followed. The school will be financially responsible for all costs of complying with health and safety matters.

The Ridgecrest Charter School shall comply with all provisions of Education Code 44237, using the Live Scan program. Teachers shall comply with the credential requirements as mandated by law and regulation as it applies to California charter schools and the No Child Left Behind Act.

Records of student immunization shall be maintained, and staff shall honor the requirements for periodic TB tests. The Ridgecrest Charter School will develop further health, safety, and risk management guidelines in consultation with its insurance carriers and risk management experts. If a non-district site is used, the school building will be assessed for structural safety, using existing state, county, and city standards for independent and parochial schools.

The charter school agrees to purchase premises liability insurance and will name as **"**additional insureds**"** those legal entities identified by the State Board of Education. As an example, the charter school agrees that upon registration, parents shall sign a hold-harmless agreement acknowledging their children are attending school in a facility that does not meet Field Act standards.

ELEMENT SEVEN
Maintaining a Racial and Ethnic Balance in the School

Pupils will be considered for admission without regard to ethnicity, race, or national origin. The school will strive to achieve a racial and ethnic balance of students and staff which reflects the community in which the school is located.

Targeted marketing in order to achieve racial balance will include print and electronic media, community and regional outreach through flyers, direct presence at service group meetings within and outside the community, distribution of promotional and informational materials to a broad variety of community groups and agencies that serve the various racial and ethnic groups represented in the district, outreach meetings in convenient locations and upon the request of community groups to reach prospective students and parents, and direct mail where appropriate.

ELEMENT EIGHT
Admissions Requirements, if Applicable

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Because the Ridgecrest Charter School is a public school committed to equal opportunity, the school will be non-sectarian and employ no admissions exams or special admissions requirements. Admission to the Ridgecrest Charter School shall be open to all California residents legally able to attend a California public school for the identified grade levels being served by this school, on a non-discriminatory basis without regard to race, color, national origin, disability, creed, sex, ethnicity, age, ancestry, proficiency in English language, or academic achievement. The Ridgecrest Charter School is a school of choice. Existing students who submit an intent to return form by the established deadline have first priority in the following year's enrollment. Newly enrolling siblings of these existing students and newly enrolled children of staff members have second priority, followed by students who live in the County and are from the community in which the school is located. Remaining open seats will be filled in accord with local procedures. In any year in which more students apply than can be admitted, a lottery system will be used. (Please see Appendix for Lottery Procedures) Each potential applicant and parent will be provided opportunity to sign an agreement showing their support for and commitment to the expectations of students and parents. These expectations will be provided to each parent and applicant.

Because we are committed to including students with exceptional needs into the school's student body, and lest there be any concern that this school is not committed to serving students with exceptional needs, we emphasize in this portion of the charter proposal the process for providing such services. The Ridgecrest Charter School will provide any required special education services to the school's pupils through the local SELPA. The school pledges to work in cooperation with all appropriate local education agencies (LEAs) and special education local plan areas (SELPAs) to ensure that a free and appropriate education (FAPE) is provided to all Ridgecrest students with exceptional needs.

The Ridgecrest Charter School must and will abide by the 1997 Federal IDEA legislation, the State of California regulations for implementation (Solis Bill) including Part 30 of the California Education Code relative to Special Education programs, and relevant parts of chapters 3 and 5.1 of Division 1 of Title 5 of the California Code of Regulations relative to the Special Education of children and youth with disabilities and uniform complaint procedures. The charter school will also comply with Kern County SELPA Local Area Plan for Special Education.

The Ridgecrest Charter School will follow the legal specifics of Special Education/IDEA legislation in its delivery of services, including:

- an equal opportunity for all children that may not be denied on the basis of a disability;
- a written Individualized Education Program (IEP) for all students identified and qualified as having a disability and receiving special education services;

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- a free and appropriate public education program – this program to be determined on an individual case-by-case basis depending on each student's unique needs and which may be challenged by the student's parent(s) through due process procedures;
- a least restrictive environment or "natural environment" in consideration of the following factors:

  (1.) a comparison between educational benefits available to a disabled student in a traditional classroom and a special education classroom;
  (2.) the non-academic benefits to the student with a disability from interacting with non-disabled students;
  (3.) the degree of disruption of the education of other students resulting in the inability to meet the unique needs of the disabled student;

- due process requirements which include notification of parent(s) of the intent to evaluate for special education and consent to this process by the parent(s);
- nondiscriminatory evaluation procedures for children with IEP's.

It is the policy of Ridgecrest Charter School to develop Individual Student Plans for all students in all classes. These Individual Student Plans should be inclusive of relevant strategies to meet all of the education needs of the child regardless of any educational handicap. It is the goal of Ridgecrest Charter School to meet the educational needs of every child in every classroom and to minimize the need for special education services. This ultimately gives the charter school more latitude of response in meeting all children's needs.

If the Individual Student Plan is not meeting the educational needs of the child, and the teacher or teachers have met with parents and instituted classroom modifications, the child should be referred to the Student Study Team. The purpose of the Student Study Team is to bring all school-wide resources to aid powerful learning program strategies for special needs. The Student Study Team uses a systematic problem-solving approach, utilizing teachers, administrators, parents, the student, counselors, psychologists, nurses, relatives, and community persons, to assist students who are not progressing at a satisfactory rate.

We reiterate the following:

1. If a parent/legal guardian requests a special education evaluation they have a legal right to have that request carried out within the mandated time frame (50 calendar days from the time the assessment plan is signed by the parents).
2. If a child appears to have a speech difficulty, he or she may be referred for a speech and language evaluation without going through the Student Study Team process.

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3. Special Education students will be served through the specifics of the Individualized Education Plan, not the Individual Student Plan process. The IEP will serve as the Individual Student Plan for Special Education students.

The Director will meet regularly with special education personnel including psychologists, speech and language therapists, adaptive physical education specialists, and resource specialists. The Director will request a monthly report from all special education professionals outlining the amount of time each professional spends with each special education student as correlated with Individual Education Plan (IEP) mandates. The reports from resource specialists shall include meeting dates with parents as scheduled on the IEP. All components of the approved RCS Local Plan presented and approved by the Kern County SELPA will be adhered to.

Special education personnel on-site at a charter school should always be working as a team with the school teachers, aides, parents, and administrators. The Director will hold special education personnel accountable for how IEP goals and objectives are communicated to teachers, aides, and parents.

All hours of service listed on the IEP must be provided to the child. If the hours are not being provided on a weekly basis, as is the case when certain specialists are not available for hire, those service hours must be provided in arrears.

All incoming students will be screened to determine if they have an Individual Education Plan (IEP) or a 504 Plan.

Petitioner will be its own LEA within the county SELPA. The charter school budget will reflect actual encroachment cost.

Persons hired to provide special education services will be credentialed and will receive the specialized training to provide the appropriate services to special education students.

ELEMENT NINE
Audit of Financial and Programmatic Operations

Fiscal

The Ridgecrest Charter School receives funding in accordance with the Charter School Block Grant. It is the intent of the Ridgecrest Charter School .

- implement the fiscal regulations approved by the State Board of Education pursuant to the requirements of law;

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- compensate the SELPA for the value of any direct services requested by the charter school and provided, at their discretion, by the SELPA (understanding that the SELPA will provide the charter school with a cost estimate for services requested and approved by the SELPA); and

- address funds transfer and fiscal overview procedures.

In addition to the revenue sources specified in the Charter School block grant, the State Board of Education will ensure the distribution of other revenue sources that the school is eligible for, to the extent that the charter school students and programs generate funding payments. These other revenue sources can include, but are not limited to, the following sources and programs: the California State Lottery; Supplemental Hourly Instruction Program revenues; categorical block grants; charter school funding from the California Department of Education; the federal government, or other sources; and any other available or mutually agreeable sources and funding for programs.

Accountability and Annual Audit

The State Board of Education and the charter school's board will review the fiscal integrity of the Ridgecrest Charter School in order to satisfy itself that sound financial procedures are in place and are being followed. The adherence to such sound financial practices by the Ridgecrest Charter School is a condition for the continuance of the charter.

The charter school's board will form an audit committee each fiscal year to oversee selection of an independent auditor with experience in educational finance and the completion of the annual audit of the school's financial affairs. The audit will verify the accuracy of the school's financial statements, attendance and enrollment accounting practices, and review the school's internal controls. The audit will be conducted in accord with generally accepted accounting practices applicable to the school. To the extent required under applicable law, the audit scope will be expanded to include items and processes specified in any applicable Office of Management and Budget Circulars. The annual audit will be completed by December 15th following the close of the prior academic year and copies will be sent by that date to the State Board of Education, the Kern County Office of Education, and the California Department of Education. The school's audit committee will review any audit exceptions or deficiencies and report to the school's board with recommendations on how to resolve them. The board will report to the State Board of Education regarding how the exceptions and deficiencies have been or will be resolved. The board will complete this process within sixty days of audit receipt. Any disputes regarding the resolution of audit exceptions and deficiencies will be referred to the dispute resolution process contained in this document.

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Business Practices and Contracting for Services and Goods

The Ridgecrest Charter School may**,** where permitted**,** contract with the local district for goods or services which the district, at its discretion, may choose to make available. Such contracts, however, shall not be construed to negate the operational independence of the charter school from the district.

The Ridgecrest Charter School will contract for accounting, budgeting, payroll, and independent audit services with a school district, the County Office of Education, or a commercial firm. At such time as the school's enrollment reaches a minimum of 450 students, and therefore as the budget permits, RCS shall provide fiscal services through in-house staff at the school. The school will then initiate a contract for fiscal service with the Kern County Office of Education.

Commencing in February/March 2004, the school issued a "Request For Proposal" for the performance of such fiscal services. For the February/March 2004 RFP process, four firms were solicited and two firms responded to the RFP. The competitively selected firm is on contract for the 2004-2005 school year with an option for a two year renewal if approved by the RCS Board at that time.

The school shall notify the State Board of Education no later than August 1 each year as to the entity providing such services.

School Site Rental or Site Purchase

Because of its phased plans, the Ridgecrest Charter School will likely make use of several types of facilities during the life of the school, including use of district property not now used for instructional purposes in whole or in part under permission granted by law, rental of existing space, lease of bare land with installation of temporary buildings, or purchase of a permanent site and construction of permanent school buildings. The State Board of Education shall have no legal obligation to assist, financially, the Ridgecrest Charter School during the development of various sites. However, they shall cooperate in the legal process of future site acquisition by adopting those resolutions which may be required to obtain a suitable site, if such cooperation is necessary. The Ridgecrest Charter School shall reimburse the State Board of Education for any reasonable costs it should incur as a result of this cooperation. The charter school will, at its own expense, be responsible for obtaining appropriate permits from the local jurisdiction (such as the city or county) including building permits, occupancy permits, fire/life safety inspections, and Conditional Use Permits as required to ensure a safe environment for staff and students.

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Insurance and Safety Policy

The Ridgecrest Charter School will compile and maintain as necessary general liability, student accident insurance, automotive liability, errors and omissions, property, workers compensation, and unemployment insurance policies through its own insurance program or through agencies recommended by the State Board of Education. If separate insurance is procured, it shall be equivalent with respect to limits of coverage.

The Ridgecrest Charter School will develop health, safety, and risk management guidelines in consultation with its insurance carriers and risk management experts or through those persons recommended by the State Board of Education.

Personnel Policies

Ridgecrest Charter School has developed personnel policies which are periodically reviewed by the Ridgecrest Charter School's board and the charter school's legal counsel for compliance with applicable laws.

Salary

Teachers and other employees are placed on the charter school salary schedule according to the responsibilities which they assume. All employees of the charter school will receive salary in the first year that will be competitive with the average salary paid in the county for placement for a similar position.

Revenues and expenditures are reviewed annually, and a recommendation is made through RCS after counsel with staff for cost of living adjustments and incentive pay to remain competitive with similar positions within the county. Teachers may move up within each teacher level based on performance. Career paths will be developed for teachers.

Evaluation Procedure

The Director shall have the right to observe and evaluate staff using a performance appraisal framework and system. The purpose of the performance appraisal system is to promote greater accountability by leading to changes in professional practice that result in the continuous improvement of student achievement. The assessment will include, but need not be limited to:

- an analysis of student achievement based on student performance on standardized and other specific assessments;
- observations by the Director in professional settings;

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- accomplishment and growth consistent with core professional expectations as documented by the teacher in a professional performance improvement program;
- a self-assessment based on adherance to the vision and mission of the school;
- community presence and involvement including frequency of parent contact;
- an analysis of parent and student surveys to be collected in the spring of the year.

The Director will be evaluated by the Ridgecrest Charter School Board.

Programmatic Audit

Effective for the 2004-2005 school year, RCS shall ~~contract for the services of an extranl entity (e.g., California Charter Schools Association or the Charter School Development Center) to prepare and~~ publish an "Annual Programmatic Report" by June 1st of each academic year. This report will be in the form of the school accountability report card (SARC). ~~The external entity shall be mutually agreed upon by the California Department of Education and the Board of the Ridgecrest Charter School no later that September 15th of each school year.~~ The ~~external entity~~report shall collect the necessary data to report on the following at a minimum:

- summary data showing student progress toward the goals and outcomes specified in Element Two from assessment instruments and techniques listed in Element Three;
- an analysis of whether student performance is meeting the goals specified in Element Two, displayed on both a school-wide basis and disaggregated by major racial and ethnic categories to the extent feasible without compromising the "Family Education Rights and Privacy Act";
- a copy of the charter board's evaluation of prior-year management performance, summary of major decisions and policies established during the year, and upcoming year goals;
- data on the level of parent involvement in the school's governance (and other aspects of the school, if applicable) and summary data from an annual parent and student satisfaction survey;
- data regarding the number of staff working at the school and their qualifications;
- a copy of the school's health and safety policies and/or a summary of any major changes to those policies during the year;
- information demonstrating whether the school implemented the means described in Element Seven to achieve a racially and ethnically balanced student body, and an overview of the student body (including the school's admissions practices, number of students enrolled, number on waiting lists, and numbers of students subject to suspension/expulsion);
- analyses of the school's internal and external dispute mechanisms and data on the number and resolution of disputes and complaints;

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- other information regarding the educational program and the administrative, legal, and governance operations of the school relative to compliance with terms of the charter generally.

The Report shall be transmitted in writing to the State Board of Education and the California Department of Education. Copies of the Report will be made available to each family in the school and shall be reviewed annually at a noticed public meeting called for by the Ridgecrest Charter School Board.

ELEMENT TEN
Suspension and Expulsion Procedures

The criteria for suspension and expulsion of students at the Ridgecrest Charter School will be consistent with state and federal laws. Petitioner will adhere to the specific procedures and explanations identified by current RCS Board policy.

Consistent with the efforts to share the governance of the school, specific suspension and expulsion procedures that comply with constitutional standards of due process will be reviewed by the school community at the beginning of each school year. This process will provide parents and students with an opportunity to exercise such leadership skills as problem solving, negotiation, shared decision making, and conflict resolution, as well as fostering a sense of personal and community responsibility.

The Ridgecrest Charter School will provide students due process hearings in conformity with the requirements of state and federal law regarding discipline, special education, confidentiality, and access to records. Student rights to an education during suspension will be addressed in compliance with the documents referenced above and in conformance with AB 2728.

The bottom-line purpose of the suspension and expulsion procedures will be to ensure a safe and effective learning environment. Successful procedures will provide for due process, be specific and concrete, and be supported by the school community.

The school will adhere to the specific language of listed offenses for serious disciplinary action as are found in RCS Board Policy 5144 (see Appendix). While suspension and expulsion are to be regarded as a last resort, the following represents some of the grounds for such action:

1. the threat, causation, or attempted causation of physical injury to another person;
2. possession of a weapon (e.g., firearms, knives, and explosives) as grounds for immediate expulsion;

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3. unlawful possession, use, sale, offer, or being under the influence of any controlled substance, alcoholic beverage, or intoxicant;
4. robbery or attempted robbery of another person's property or school property;
5. significant damage or attempt to damage school property;
6. an obscene or offensive act or habitual profanity/vulgarity;
7. persistent failure to respond to correction, especially as to respect for staff, respect for others (consistent with the State Education Code prohibition against harassment), or persistent and repeated failure to follow student rules.

This list will be reviewed and modified if necessary on a periodic basis.

Prior to suspending a student, if circumstances permit, the student and his/her parents shall be given a written statement of the reasons for suspension. The student and his/her parents shall also be given an opportunity to meet with the school Director to present any evidence as to why a suspension should not be imposed. If circumstances require an immediate suspension, written notice and an opportunity to meet shall be provided to the student and his/her parents within two days of the suspension.

The student must be given written notice of a proposed long-term suspension or expulsion, and of the reasons therefor. If the student or his/her parents contest the proposed disciplinary action, a hearing shall be held before the charter board to determine whether cause exists for the disciplinary action. The student shall have the right to be represented by counsel at the hearing before the charter board, to present evidence on his/her own behalf, and to confront and cross-examine adverse witnesses. The written notice to the student of the proposed disciplinary action must advise the student of the above-listed rights, and must specify the date, time, and place of the disciplinary hearing. The disciplinary hearing shall be held within thirty days from the date the student was originally suspended. The decision of the charter board shall be final.

Charter school practice for Special Education students will be in accord with policies and procedures adopted by the RCS board.

The focus of the Ridgecrest Charter School is on learning. The staff of the Ridgecrest Charter School will design and implement a comprehensive schoolwide learning environment initiative.

In order for parents to understand these policies and ALL of the policies and procedures for the charter school, parents will be provided an opportunity to sign and agree to a statement of parental commitment to attend parent meetings and conferences, deepen their knowledge of the school's curriculum and philosophy, and to support the work of the school in the home. It is not the intent of petitioner to deny access to the education offered at the charter school, while at the

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same time understanding that, for student success, the school's mission and vision ought to be shared and understood by each student and their family.

In securing a parental family commitment as a part of the enrollment process, the Ridgecrest Charter School will act sensitively and be flexible with regard to its parental involvement policy. If a parent cannot fulfill his/her expectations to the school, then a relative or community resource person will be asked to volunteer. All parental expectations will be discussed at the beginning of each year by the entire school community and throughout the year by the Parent Teacher Organization.

ELEMENT ELEVEN
STRS and PERS Contribution

To the extent allowed by law, employees of Ridgecrest Charter School shall be able to participate in any and all teacher and employee retirement funds that they would be eligible if they were teaching in a non-charter public school.

Certificated, classified, and other staff members of the Ridgecrest Charter School shall retain all previously vested rights in their respective retirement systems, including, but not limited to Stae Teachers Retirement System, Public Employee Retirement System, and the Social Security System. The charter school will make such application for STRS/PERS as may be necessary and will, from its budget, honor any obligation under those programs to match the employee contribution.

Faculty and staff and the Ridgecrest Charter School will participate in the federal Social Security system and will have access to other school-sponsored retirement plans. Ridgecrest Charter School will allow eligible school faculty and staff who transfer from a different public school to participate in the (STRS) or (PERS), make contributions to (STRS) or (PERS) (for eligible faculty and staff who have transferred from different public schools).

ELEMENT TWELVE
Attendance Options for Students Who Choose Not to Attend the Ridgecrest Charter School

As per state law, no governing board of a school district shall require any pupil enrolled in a public school to attend a charter school. The parent of each student enrolled in the school shall be informed that the student has no right to admission in a particular school of any Local

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Education Agewncy (LEA) or program of any LEA as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the LEA.

ELEMENT THIRTEEN

Employee Rights When Working in the Ridgecrest Charter School and Right to Return to a Different Public School After Employment at a Charter School.

The Ridgecrest Charter School will hire all school staff. For staff employed by a different public school in the prior year, they shall (as in the case of all other employees) be selected, employed, and released by the charter school through RCS which shall set the terms and conditions of employment.

When hiring a Director, applicants shall be interviewed by a team including parents, staff, and board members. The RCS board shall make the final selection. The Director shall have a two-year contract while the other members of the Ridgecrest Charter School staff will be given annual contracts; the Director and staff will be considered employees of the Ridgecrest Charter School as executed through the Ridgecrest Charter School.

No public school district employee shall be required to work at the Ridgecrest Charter School. Any employee who so desires shall be considered for employment through an open application process, and, if hired, shall enter into a contractual agreement with the Ridgecrest Charter School which shall have the authority to hire and terminate the position, in accordance with the agreement executed between the Ridgecrest Charter School and the employee.

Charter school employees shall have any right upon leaving the LEA to work in the charter school that the LEA may specify, any rights of return to employment in a LEAafter employment in the school that the LEA may specify, and any other rights upon leaving employment to work in the school that the State Board of Education determines to be raesonable and not in conflict with any law.

Charter school staff who are hired but were not part of a public school district in the preceeding year shall be considered as “at will” employees with no right of return to a district.

<u>Right to Accrue Permanent Status (tenure)</u>

Where permitted by a local public school district, appropriately certified teachers who are working in the charter school have the right to accrue permanent status in the district that they left on the same schedule and through a joint evaluation process with the prior district as per

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Education Code. This provision shall apply only to teachers who were employed by a district in a public school assignment immediately prior to their assignment to the charter school.

Layoff/Dismissal Rights

In situations where discipline of an employee becomes an issue, the charter school will pursue progressive communication and action (including but not necessarily limited to being given a reasonable opportunity to improve performance, suspension with or without pay, or termination of employment if necessary).

Maximum Class Size Limitation

The charter school ~~will~~ may participate in the class size reduction program, if offered by the state, in grade levels kindergarten, one, two, and three, and any other grades which may be included in the future. The Ridgecrest Charter School, if~~n~~ receiving class size reduction funds, agrees to adhere to all state laws and regulations pertaining to the use of class size reduction funds.

Work Year/Day

The full work year for teachers may be extended to include up to 210 work days and the work day will be 8 hours.

Membership in the Local Teachers Association

Teachers originally employed by a local public school district who elect to work at the Ridgecrest Charter School may retain their membership in the local teachers association if they wish, but will not be required to do so as condition for hiring at the Ridgecrest Charter School. Such membership, however, shall not make the teacher collective bargaining applicable to employment at the Ridgecrest Charter School, as the employees are employees of the charter school.

Dispute Resolution Procedure

A claim by an employee that a term of employment at the Ridgecrest Charter School has been misinterpreted, misapplied, or violated with respect to that employee shall be resolved through the following process set forth below. The term "claim" below shall have the meaning specified in this paragraph.

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Stage 1 - The Director-Immediate Supervisor

A claim by an employee must be presented in writing to the Director within twenty-one calendar days of the event or condition giving rise to the claim. The Director shall meet with the claimant to try to resolve the claim. If the claim is not resolved within ten calendar days from the date the claim is presented to the Director, the claimant may present the claim to the designated representative (member) of the RCS board. All claims to this person must be submitted in writing within four calendar days after the ten-day resolution period with the Director.

Stage 2 - RCS

Within fourteen days of receipt of the claim, the designated RCS board member will investigate the claim, and if necessary, meet with the claimant and any other persons necessary for resolution of the claim. Within twenty-one days after receipt of the claim, a written decision shall be rendered.

Stage 3- The Charter School Board

In the alternative, claimant may appeal a decision of the Director, to a committee of the charter board by submitting a written appeal to the board within fourteen calendar days from the date of the Director's decision. The committee shall consist of three members of the Ridgecrest Charter School's Charter Board. The claimant shall mail or personally deliver to the Director a copy of the appeal at the time he/she submits the appeal to the committee. The Director shall submit a reply to the committee within seven workdays from the date of the filing of the appeal.

The committee may investigate the claim by reviewing the written record or by interview of the involved parties. The committee shall render a decision on the appeal within fourteen days after the filing of the appeal. The full committee must render a decision. In the event of a tie vote, the decision of the Director shall be deemed upheld.

ELEMENT FOURTEEN
Dispute Resolution Procedure

<u>Dispute Resolution Process – Direct Resolution</u>

Because the State Board of Education (SBE) is not a Local Education Agency, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process outlined

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below, provided that if the SBE intends to resolve a dispute directly, it must first hold a public hearing to consider arguments for and againts the direct resolution of the dispute.

Dispute Resolution Process –*Alternate Resolution*

(a) California Education Code Section 47605 (b)(1 4) requires that a charter designate the procedures to be followed by the charter school and the "entity" creating the charter in the event of a dispute relating to the provisions of the charter. In the case of the Ridgecrest Charter School petition, the entity creating the charter shall be the State Board of Education.

(b) The Ridgecrest Charter School shall be governed by the charter board, as set out in Element Four of this charter application, which is responsible for the governance and operation of the school in accordance with the provisions of the charter.

(c) In the event of a dispute concerning whether the Ridgecrest Charter School is meeting the goals and objectives of the charter, the State Board of Education shall provide written notice to the other of the nature of the dispute and the facts which the party believes supports the failure to comply. This notice shall be provided within 15 calendar days of when the party either knew or should have known of the possible violation unless there are extenuating circumstances. In an emergency, where oral notice precedes written notice, the oral notice shall be immediately followed by written notice.

(d) After the receipt of the notice, the State Board of Education designee and a representative of the RCS board shall meet to try and resolve the dispute. If a resolution is reached, a written description of that resolution shall be drafted and signed and preserved as guidance for future action.

(e) If no resolution is reached, the matter shall be submitted to a mediator experienced in conflict resolution and educational issues. The first opportunity for striking shall be determined by lot. The parties shall alternately strike until one name remains. Within 10 calendar days of appointment or otherwise mutually agreed, the parties shall meet to resolve the dispute. Any agreements reached shall be written and preserved as set out in paragraph (d) above.

(f) If the agreement is unresolved 15 calendar days after the meeting, either party may request that the State Mediation and Conciliation Service provide names of arbitrators experienced in matters relating to the schools of California. This shall be a binding arbitration process. Using the striking process set out above, an arbitrator shall be

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chosen who shall allow for a hearing in which both parties may submit evidence in support of their positions. The award of the arbitrator must be provided within 15 calendar days of the hearing and shall be final and binding except as set out in CCP Section 1280 et. Seq. The arbitrator shall have no power to add to, subtract from, or otherwise modify the charter. The formal rules of evidence shall not be applicable at the hearing, and either party may choose or not choose to be represented by counsel. Each party shall bear its own costs and evenly divide the cost for the mediation and arbitration. The award of the arbitrator shall be preserved and guide how future disputes with same or similar issues are resolved.

ELEMENT FIFTEEN
Labor Relations/Employment

All employees of the charter school shall be employees of the charter school and not employees of the State Board of Education for purposes of the Education Employment Relations Act.

ELEMENT SIXTEEN
Closure Procedures

All goods and materials purchased by the Ridgecrest Charter School with funds provided by the Ridgecrest Charter School will be owned by the Ridgecrest Charter School's not-for-profit organization and shall remain so notwithstanding any withdrawal of charter status by the State Board of Education. Should the Ridgecrest Charter School's not-for-profit organization disband, all of its property and assets will be liquidated according to state law governing public benefit corporations. Any materials and property donated or loaned to the Ridgecrest Charter School will be properly inventoried and returned to the owner on withdrawal of charter status. All public property used by the charter shall be protected by insurance satisfactory to the State Board of Education.

Should closure occur, RCS closure-related activities will be conducted by the Director. The ~~school~~ Director will notify the parents/guardians of pupils, the State Board of Education, the California Department of Education, the Kern County Office of Education, ~~and~~ the Kern County Special Education Local Plan Area, ~~Education Agencies~~the Public Employees' Retirement System, State Teachers' Retirement System, and federal social security. ~~in which the charter students reside.~~ Such notification shall be ~~my certified mail. Additionally, the charter school shall notify the parents of all registered students~~ by mail and will include the effective date of closure and will state that all reasonable inquiries be made to the Director regarding closure. The notification will also include the pupils' school district of residence, for most of

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whom it will be Sierra Sands Unified School District, 113 W. Felspar, Ridgecrest, CA 93555, and a list of pupils in each grade level and the classes that they have completed. The notification will also state that parents and guardians may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements from Sierra Sands Unified School District. Student records will be transferred for storage and forwarding/distribution to the Local Education Agency in which the school resides if the local LEA permits such a transfer. In the alternative, records will be stored at the County Office of Education~~, or at such other location as the State Board of Education may direct. Notice of the location of the records shall be included in the parent and district notices~~.

Transfer of all pupil records, all state assessments results, and any special education records will be by the Director. Maintenance of all pupil records will be by the Sierra Sands Unified School District except for records and/or assessment results that the charter may require to be transferred to a different entity.

Transfer and maintenance of personnel records to the Kern County Office of Education will be in accordance with applicable law.

A final independent audit shall be conducted and concluded within ~~ninety days~~six months of school closure that may function as the annual audit, with the audit report being forwarded to the County Office of Education, the California Department of Education, and the State Board of Education The audit report will include at least the following: 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.

Ridgecrest Charter School will dispose of any net assets remaining after all liabilities of the charter school have been paid or otherwise addressed, including, but not limited to, the following: the 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, and the return of any donated materials and property in accordance with any conditions established when the donation of such materials or property was accepted.

Ridgecrest Charter School further agrees upon closure to complete and file any annual reports required pursuant to Education Code section 47604.33.

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Ridgecrest Charter School will identify in its budget an adequate amount of funding to cover all costs incurred from the aforementioned closure procedures.

ADDITIONAL WARRANTS

AS A PART OF THIS DOCUMENT, PETITIONER AGREES THAT A CHARTER SCHOOL MUST AND THEREFORE WILL COMPLY WITH THE FOLLOWING IN ACCORD WITH EDUCATION CODE 47605 (c):

"Charter schools shall meet the statewide performance standards and conduct the pupil assessments required pursuant to section 60602.5"

"47605 (d) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admissions policies, employment practices and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state."

Additional Requirements

All of section 47605 (d) shall be adhered to by the Ridgecrest Charter School with the understanding that preference will be given to those who reside in the Indian Wells Valley.

Term and Renewal of Charter

The term of this charter shall be from September 4, 2004 through September 3, 2009.

This charter may be revoked as provided by law. Before revoking the charter, the State Board of Education shall provide the Ridgecrest Charter School with the notice of the proposed revocation and of the reasons thereof.

The State Board of Education must approve material revisions to the charter. However, all proposed revisions to the charter must be presented to the State Board of Education for a determination as to whether or not the proposed revision is a material revision that must be approved by the State Board of Education.

A request by the Ridgecrest Charter School for renewal of the school's charter shall be presented no later than February of the school's last year of operation in the then current term.

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ADDENDUM

The Ridgecrest Charter School will adhere to all Federal Regulations under the National School Lunch Program and Breakfast Program. It is hoped that contract services will be established with a local school district, assuming that the delivery cost remains competitive as compared to the private sector.

The charter school will be responsible for including custodial, landscape, and maintenance services in the school's operating budget.

APPENDICES/ATTACHMENTS

A. Bell Schedule Template

B. Charter School Block Grant Funding-Budget

C. Calendar Template

D. Petition Signatures

E. Non-profit Public Benefit Corporation By-Laws/Verification

F. Charter School Board By-Laws

G. Parent-Teacher Organization By-Laws

H. Due Process/Discipline-Board Policy

I. Lottery/Admissions Procedures

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ITEM #26

CALIFORNIA STATE BOARD OF EDUCATION

July 2007 AGENDA

SUBJECT	
Chief Business Officer Training Program – Approve Training Candidates for Fiscal Year 2007-08	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the candidates nominated by their local educational agencies (LEAs) for the Chief Business Officer (CBO) Training Program.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Beginning with the July 2006 SBE meeting, the SBE has approved training candidates for the CBO Training Program (Senate Bill 352, Chapter 356, Statutes of 2005). This program provides incentive funding for school districts, county offices of education, and charter schools to send candidates to CBO training by state-qualified providers.

SUMMARY OF KEY ISSUES

Following the SBE's approval of training providers at its May 2006 meeting, LEAs applied for funding on behalf of their CBO candidates. All funding for the 2006-07 fiscal year, for a total of 350 candidates, was committed. Subsequent applications were placed on a waiting list pending additional funding being appropriated in the 2007 Budget Act. This training request is for those LEAs and others requesting approval to receive 2007-08 funding for their training candidates.

An LEA recommended for approval has given signed assurance that:

- The nominated training candidate has committed to provide no less than two years of continuous service to a state public school following completion of the training;

- The CDE will withhold the amount of funds received from its next principal apportionment if the nominated candidate does not participate in or complete the training; and

- Information will be provided regarding the LEA's fiscal certification status, the candidate's employment and retention status, and any other data requests made by the CDE to fulfill reporting requirements.

Once the SBE approves the training candidates, initial funding will be allocated to the LEAs upon confirmation of the candidate's enrollment in the selected program. The remaining funds will be allocated upon the candidate's completion of the program.

FISCAL ANALYSIS (AS APPROPRIATE)

Three thousand dollars ($3,000) per eligible training candidate has been allocated for this purpose, with 50 percent of the funding allocated after approval of the LEA application, and the remaining 50 percent allocated upon completion of the CBO training. The Budget Act of 2007 appropriated additional funding for this purpose and provides funds for candidates during the 2007-08 fiscal year.

ATTACHMENT(S)

Attachment 1: CBO Training Candidates Recommended for Approval Fiscal Year 2007-08 (8 Pages)

CBO Training Candidates Recommended for Approval
Fiscal Year 2007-08

County	Local Educational Agency	Candidates Nominated	Training Provider
Alameda	Alameda County Office of Education	1	CASBO
Alameda	Alameda Unified School District	1	CSDC
Alameda	Castro Valley Unified School District	1	CASBO
Alameda	Hayward Unified School District	1	USC, Rossier
Alameda	Livermore Valley Joint Unified School District	1	TSS
Alameda	Newark Unified School District	3	CASBO
Alameda	East Bay Conservation Corps	1	CSDC
Alameda	San Lorenzo Unified School District	2	CASBO
Butte	Chico Country Day School	1	CSDC
Butte	Palermo Union School District	2	CASBO
Calaveras	Mark Twain Union Elementary School District	1	CASBO
Calaveras	Vallecito Union School District	1	USC, Rossier
Colusa	Maxwell Unified School District	1	CASBO
Contra Costa	San Ramon Valley Unified School District	1	CASBO
Contra Costa	Walnut Creek School District	1	USC, Rossier
Del Norte	Uncharted Shores Academy	2	CSDC
El Dorado	El Dorado County Office of Education	1	CASBO
El Dorado	Buckeye Union School District	1	CASBO
El Dorado	Camino Union School District	1	CASBO
El Dorado	Mother Lode Union School District	1	USC, Rossier
Fresno	Fresno County Office of Education	2	CASBO
Fresno	Washington Colony Elementary School District	1	CASBO
Fresno	Westside Elementary School District	1	CASBO
Fresno	Golden Plains Unified School District	1	CASBO
Fresno	Caruthers Unified School District	1	CASBO

County	Local Educational Agency	Candidates Nominated	Training Provider
Humboldt	Big Lagoon Union School District	1	CASBO
Humboldt	McKinleyville Union School District	1	CASBO
Humboldt	Peninsula Union School District	1	CASBO
Humboldt	Trinidad Union School District	1	CASBO
Humboldt	Mattole Unified School District	4	CASBO
Humboldt	Eureka City Unified School District	1	CASBO
Imperial	Holtville Unified School District	1	CASBO
Kern	Kern County Office of Education	3	CSU, Bakersfield
Kern	Delano Union School District	1	CSU, Bakersfield
Kern	Fairfax School District	2	CSU, Bakersfield
Kern	Greenfield Union School District	1	CSU, Bakersfield
Kern	Kern High School District	2	CSU, Bakersfield
Kern	Kernville Union School District	1	CSU, Bakersfield
Kern	Lamont School District	1	CSU, Bakersfield
Kern	Midway Elementary School District	2	CSU, Bakersfield
Kern	Mojave Unified School District	2	CSU, Bakersfield
Kern	Norris School District	1	CSU, Bakersfield
Kern	Taft City School District	1	USC, Rossier
Kern	Tehachapi Unified School District	2	CSU, Bakersfield
Kings	Reef-Sunset Unified School District	2	CASBO
Lake	Middletown Unified School District	1	USC, Rossier
Lake	Lake County International Charter School	1	CSDC
Lassen	Susanville School District	1	CASBO
Lassen	Fort Sage Unified School District	2	CASBO
Los Angeles	East San Gabriel Valley JPA	1	USC, Rossier
Los Angeles	El Segundo Unified School District	1	USC, Rossier
Los Angeles	Castaic Union School District	1	CSU, Bakersfield
Los Angeles	Centinela Valley Union High School District	1	USC, Rossier

County	Local Educational Agency	Candidates Nominated	Training Provider
Los Angeles	Charter Oak Unified School District	2	USC, Rossier
Los Angeles	Duarte Unified School District	1	USC, Rossier
Los Angeles	Hawthorne Elementary School District	1	USC, Rossier
Los Angeles	Los Angeles Unified School District	9	USC, Rossier
Los Angeles	KIPP Academy of Opportunity	1	CSDC
Los Angeles	New Designs Charter School	1	USC, Rossier
Los Angeles	Camino Nuevo High School	1	USC, Rossier
Los Angeles	Celerity Nascent Charter School	2	CSDC
Los Angeles	Los Angeles International Charter High School	1	USC, Rossier
Los Angeles	Crescendo Charter School	1	CSDC
Los Angeles	Animo Jackie Robinson Charter High School	1	USC, Rossier
Los Angeles	Crescendo Charter Academy	1	CASBO
Los Angeles	Garr Academy of Math & Entrepreneurial Studies	2	USC, Rossier
Los Angeles	Crescendo Charter Conservatory	1	CASBO
Los Angeles	Los Angeles Leadership Academy	1	USC, Rossier
Los Angeles	Community Harvest Charter School	1	CSDC
Los Angeles	Camino Nuevo Charter Academy	1	USC, Rossier
Los Angeles	Academia Semillas Del Pueblo	1	CSDC
Los Angeles	Lynwood Unified School District	1	CASBO
Los Angeles	Palmdale School District	2	CSU, Bakersfield
Los Angeles	Aveson Global Leadership Academy	1	CSDC
Los Angeles	Pasadena Rosebud Academy	2	CSDC
Los Angeles	Santa Monica-Malibu Unified School District	1	CSU, Fullerton
Los Angeles	Santa Monica Malibu Unified School District	1	CASBO
Los Angeles	Sulphur Springs School District	1	CASBO
Los Angeles	William S. Hart Union High School District	1	CASBO
Los Angeles	Compton Unified School District	1	USC, Rossier
Los Angeles	Walnut Valley Unified School District	1	USC, Rossier

County	Local Educational Agency	Candidates Nominated	Training Provider
Madera	Chowchilla School District	1	CASBO
Marin	Marin County Office of Education	1	UC, Riverside
Marin	Novato Charter School	1	CSDC
Marin	Ross Elementary School District	1	USC, Rossier
Mendocino	Mendocino County Office of Education	3	CASBO
Mendocino	Anderson Valley Unified School District	1	CASBO
Mendocino	Fort Bragg Unified School District	1	CASBO
Mendocino	Ukiah Unified School District	1	CASBO
Mendocino	Redwood Academy of Ukiah	1	CSDC
Mendocino	Laytonville Unified School District	1	CASBO
Mendocino	Leggett Valley Unified School District	1	CASBO
Merced	Planada Elementary School District	1	CASBO
Monterey	Mission Union School District	1	USC, Rossier
Monterey	International School of Monterey	1	CSDC
Monterey	Pacific Grove Unified School District	1	USC, Rossier
Monterey	Soledad Unified School District	1	CASBO
Nevada	Nevada County Office of Education	3	CSDC
Nevada	Grass Valley Elementary School District	1	CASBO
Orange	Orange County Office of Education	1	CASBO
Orange	North Orange County ROP	1	USC, Rossier
Orange	Brea Olinda Unified School District	5	CASBO
Orange	Capistrano Unified School District	1	USC, Rossier
Orange	Fullerton School District	1	CSU, Fullerton
Orange	Fullerton Joint Union High School District	2	CSU, Fullerton
Orange	Huntington Beach Union High School District	1	USC, Rossier
Orange	Newport-Mesa Unified School District	1	USC, Rossier
Orange	Ocean View School District	1	USC, Rossier
Orange	Santa Ana Unified School District	1	USC, Rossier

County	Local Educational Agency	Candidates Nominated	Training Provider
Orange	Orange County Educational Arts Academy	1	CSDC
Orange	El Sol Santa Ana Science and Arts Academy	1	CSDC
Placer	Ackerman Elementary School District	1	CASBO
Plumas	Plumas County Office of Education	1	CASBO
Plumas	Plumas Charter School	1	CSDC
Riverside	Eagles Peak Charter School--Inland Empire	1	UC, Riverside
Riverside	Moreno Valley Unified School District	1	UC, Riverside
Riverside	Palo Verde Unified School District	1	UC, Riverside
Riverside	Coachella Valley Unified School District	1	CASBO
Riverside	Lake Elsinore Unified School District	1	CASBO
Riverside	Temecula Preparatory School	1	CSDC
Sacramento	Language Academy of Sacramento	2	CSDC
Sacramento	Folsom Cordova Unified School District	2	USC, Rossier
Sacramento	Sacramento City Unified School District	4	CASBO
Sacramento	Natomas Unified School District	1	USC, Rossier
Sacramento	Natomas Charter School	1	CASBO
San Benito	Hollister School District	1	CASBO
San Benito	Hollister School District	1	USC, Rossier
San Benito	Aromas-San Juan Unified School District	1	USC, Rossier
San Bernardino	San Bernardino County Office of Education	1	CASBO
San Bernardino	San Bernardino County Office of Education	1	USC, Rossier
San Bernardino	Central School District	1	USC, Rossier
San Bernardino	Chaffey Joint Union High School District	1	USC, Rossier
San Bernardino	Mountain View School District	1	UC, Riverside
San Bernardino	Ontario-Montclair School District	1	USC, Rossier
San Bernardino	Rialto Unified School District	2	UC, Riverside
San Bernardino	ASA Charter School	3	CSDC
San Bernardino	Victor Valley Union High School District	1	UC, Riverside

County	Local Educational Agency	Candidates Nominated	Training Provider
San Diego	Borrego Springs Unified School District	1	UC, Riverside
San Diego	Feaster-Edison Charter School	1	CSDC
San Diego	Eagles Peak Charter School	2	UC, Riverside
San Diego	Lemon Grove School District	1	CASBO
San Diego	Integrity Charter School	1	CSDC
San Diego	San Diego Unified School District	1	USC, Rossier
San Diego	Keiller Leadership Academy	1	CSDC
San Diego	Nubia Leadership Academy Charter School	2	CSDC
San Diego	San Dieguito Union High School District	1	USC, Rossier
San Diego	San Ysidro School District	1	CASBO
San Francisco	KIPP Bayview Academy	1	CSDC
San Joaquin	San Joaquin County Office of Education	2	CASBO
San Joaquin	Linden Unified School District	1	CASBO
San Joaquin	Manteca Unified School District	1	CASBO
San Joaquin	New Jerusalem Elementary School District	1	USC, Rossier
San Luis Obispo	San Luis Obispo County Office of Education	1	CSDC
San Luis Obispo	San Luis Obispo County Office of Education	1	USC, Rossier
San Luis Obispo	Lucia Mar Unified School District	1	USC, Rossier
San Luis Obispo	San Miguel Jt Union School District	1	USC, Rossier
San Luis Obispo	Templeton Unified School District	3	USC, Rossier
San Mateo	Brisbane School District	1	CASBO
San Mateo	Burlingame School District	1	CASBO
San Mateo	La Honda Pescadero Unified School District	1	USC, Rossier
Santa Barbara	Buellton Union School District	1	USC, Rossier
Santa Barbara	College School District	1	USC, Rossier
Santa Barbara	Guadalupe Union School District	1	CASBO
Santa Barbara	Hope Elementary School District	1	UC, Riverside
Santa Barbara	Lompoc Unified School District	1	USC, Rossier

County	Local Educational Agency	Candidates Nominated	Training Provider
Santa Barbara	Montecito Union School District	1	USC, Rossier
Santa Barbara	Cuyama Joint Unified School District	1	CSU, Bakersfield
Santa Clara	Santa Clara County Office of Education	1	CASBO
Santa Clara	East Side Union High School District	2	CASBO
Santa Clara	Latino College Preparatory Academy	1	CSDC
Santa Clara	Evergreen School District	1	TSS
Santa Clara	Voices College-Bound Language Academy	1	CSDC
Santa Clara	Lakeside Joint School District	1	TSS
Santa Clara	Moreland School District	1	UC, Riverside
Santa Clara	San Jose Unified School District	2	USC, Rossier
Shasta	Redding School of the Arts	1	CSDC
Sonoma	West Sonoma County Union High School District	1	USC, Rossier
Sonoma	West Sonoma County Union High School District	1	CASBO
Sonoma	Pathways Charter School	1	CSDC
Sonoma	Santa Rosa City Schools	1	USC, Rossier
Sonoma	Sebastopol Independent Charter School	1	CSDC
Stanislaus	Stanislaus County Office of Education	1	USC, Rossier
Stanislaus	Salida Union School District	1	CASBO
Stanislaus	Newman Crows Landing Unified School District	1	CASBO
Stanislaus	Hughson Unified School District	1	CASBO
Sutter	Sutter County Office of Education	1	CASBO
Sutter	East Nicolaus Joint Union High School District	1	CASBO
Sutter	Franklin Elementary School District	1	CASBO
Sutter	Meridian Elementary School District	1	CASBO
Tehama	Corning Union High School District	1	USC, Rossier
Trinity	Lewiston Elementary School District	1	CASBO
Tulare	Tulare County Office of Education	1	CSDC
Tulare	Tulare County Office of Education	1	CSU, Bakersfield

County	Local Educational Agency	Candidates Nominated	Training Provider
Tulare	Alpaugh Unified School District	1	CSU, Bakersfield
Tulare	Lindsay Unified School District	1	CSU, Bakersfield
Tulare	Rockford Elementary School District	1	CSU, Bakersfield
Tulare	Sundale Union Elementary School District	1	CSU, Bakersfield
Tulare	Sunnyside Union Elementary School District	1	CASBO
Tulare	Tulare City School District	1	CSU, Bakersfield
Tuolumne	Soulsbyville School District	1	CASBO
Tuolumne	Twain Harte-Long Barn Union School District	1	CASBO
Ventura	Ventura County Office of Education	1	CASBO
Ventura	Simi Valley Unified School District	2	USC, Rossier
Ventura	Somis Academy Charter High School	1	CSDC
Yuba	Plumas Elementary School District	2	CASBO
Yuba	Wheatland Union High School District	1	USC, Rossier
	Total Training Candidates	263	

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 10, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Susan Lange, Deputy Superintendent
Finance, Technology and Administration Branch

RE: Item No. 26

SUBJECT: Chief Business Officer Training Program – Approve Training Candidates for Fiscal Year 2007-08

REVISED RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the candidates nominated by their local educational agencies (LEAs) for the Chief Business Officer (CBO) Training Program. This recommendation is pending the appropriation of funds for this purpose in the 2007-08 budget.

ITEM #27

CALIFORNIA STATE BOARD OF EDUCATION

July 2007 AGENDA

SUBJECT	
Chief Business Officer Training Program – Approve Training Candidates for Fiscal Year 2006-07	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve candidates nominated by their local educational agencies (LEAs) for the Chief Business Officer (CBO) Training Program and approve requests to change LEAs' selected training provider.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Beginning with the July 2006 SBE meeting, the SBE has approved training candidates for the CBO Training Program (Senate Bill 352, Chapter 356, Statutes of 2005). This program provides incentive funding for school districts, county offices of education, and charter schools to send candidates to CBO training by state-qualified providers.

SUMMARY OF KEY ISSUES

Following the SBE's approval of training providers at its May 2006 meeting, LEAs applied for funding on behalf of their CBO candidates. After the SBE approved training candidates at its September 2006 meeting, all available funding for fiscal year 2006-07 was committed. As such, this training request is for LEAs substituting a candidate for one previously approved during the 2006-07 fiscal year or to substitute a candidate's approved training provider.

An LEA recommended for approval has given signed assurance that:

- The nominated training candidate has committed to provide no less than two years of continuous service to a state public school following completion of the training;
- The CDE will withhold the amount of funds received from its next principal apportionment if the nominated candidate does not participate in or complete the training; and

SUMMARY OF KEY ISSUES (CONT.)

- Information will be provided regarding the LEA's fiscal certification status, the candidate's employment and retention status, and any other data requests made by the CDE to fulfill reporting requirements.

Once the SBE approves the training candidates, initial funding will be allocated to the LEAs upon confirmation of the candidate's enrollment in the selected program. The remaining funds will be allocated upon the candidate's completion of the program.

FISCAL ANALYSIS (AS APPROPRIATE)

Three thousand dollars ($3,000) per eligible training candidate has been allocated for this purpose, with 50 percent of the funding allocated after approval of the LEA application, and the remaining 50 percent allocated upon completion of the CBO training. The Budget Act of 2005 appropriated $1.05 million for this purpose, to provide funds for up to 350 candidates. Additional funding beyond 2006-07 is proposed as part of the 2007-08 state budget.

ATTACHMENT(S)

Attachment 1: CBO Training Candidates Recommended for Approval (1 Page)

CBO Training Candidates Recommended for Approval
Fiscal Year 2006-07

County	Local Educational Agency	Candidates Nominated	Training Provider
Plumas	Plumas Unified School District	1	USC, Rossier *
San Luis Obispo	San Luis Obispo County Office of Education **	1	CASBO
	Total Training Candidates	2	

* Previously SBE approved; change in training provider requested.
** Previously SBE approved; change in training candidate requested.

ITEM #28

CALIFORNIA STATE BOARD OF EDUCATION

July 2007 AGENDA

SUBJECT	
Charter Schools: Determination of Funding Requests for 2006-07 (and beyond) for Nonclassroom-based Charter Schools	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action on four 2006-07 (and beyond) determination of funding requests from charter schools pursuant to *Education Code (EC)* sections 47612.5 and 47634.2, and *California Code of Regulations*, Title 5, sections 11963 to 11963.6, inclusive, based upon the recommendations of the Advisory Commission on Charter Schools (ACCS).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Senate Bill (SB) 740 (Chapter 892, Statutes of 2001) enacted provisions in law that result in potential funding reductions for charter schools that offer nonclassroom-based instruction. Nonclassroom-based instruction occurs when a charter school does not require attendance of its pupils at the school site under the direct supervision and control of a qualified teaching employee of the school for at least 80 percent of the required instructional time. A charter school is prohibited from receiving any funding for nonclassroom-based instruction unless the SBE determines its eligibility for funding. For 2003-04 and each fiscal year thereafter, the law states that funding determinations must be 70 percent unless the SBE determines that a greater or lesser percentage is appropriate for a particular charter school.

SB 740 also established the ACCS to develop the criteria for the SBE to use in making funding determinations. Moreover, the ACCS provides recommendations to the SBE on appropriate funding determination levels for nonclassroom-based charter schools and on other aspects of the SBE's duties under the Charter Schools Act of 1992.

SUMMARY OF KEY ISSUES

The ACCS made recommendations on four 2006-07 (and beyond) funding determinations considered under the revised Title 5 regulations at its meeting on June 4, 2007.

Revised Title 5 regulations (operative on December 6, 2005) specify the criteria that a nonclassroom-based charter school must meet in order for the SBE to approve a 100 percent determination of funding. These criteria state that at least 40 percent of the school's public revenues must be spent on certificated employee salaries and benefits, at least 80 percent of all revenues must be spent on instruction and instruction-related costs, and the student-to-teacher ratio does not exceed 25-to-1 or the student-to-teacher ratio of the largest unified school district in the county or counties in which the charter school operates. Nonclassroom-based schools must spend a minimum of 35 percent on certificated employee salaries and benefits and 60 percent on instruction and instruction-related costs or the funding determination is zero. Pursuant to the regulations, the SBE may approve a higher or lower funding level than the criteria would prescribe based upon mitigating circumstances of the school that indicate that a higher or lower funding level is appropriate.

Pursuant to the SB 740 regulations, all funding determination requests are required to be submitted to the CDE by February 1.

FISCAL ANALYSIS (AS APPROPRIATE)

A determination of funding request approved at less than the 100 percent level would likely result in reduced apportionment claims to the state. The reductions in claims would result in a proportionate reduction in expenditure demands for Proposition 98 funds. All Proposition 98 funds, by law, must be expended each fiscal year. Thus, a reduction in apportionment claims may be more accurately characterized as an expenditure shift than as absolute savings under typical circumstances. In 2002-03, funding determination requests approved by the SBE at less than 100 percent resulted in over $30 million in reduced apportionment claims (expenditure shifts). In 2003-04, 2004-05, and 2005-06 apportionment claims were reduced (expenditures shifted) by approximately $20 million each year.

ATTACHMENT(S)

Attachment 1: 2006-07 (and beyond) Funding Determination Requests (1 Page)

2006-07 (and beyond) Funding Determination Requests

The following determination of funding requests are recommended for approval by the SBE for two years only (2006-07 and 2007-08) at the 100 percent level. The reasons justifying a level higher than 70 percent in 2006-07 and beyond are that: (1) the schools met the minimum criteria specified in regulation for the 100 percent level, and (2) the schools presented sufficient evidence (taking the totality of the request into account along with any other credible information that may have been available) that the 100 percent funding determination level is necessary for the school to maintain nonclassroom-based instruction that is conducted for the instructional benefit of the student and is substantially dedicated to that function.

Charter Number	CDS Code	Charter Name	2006-07	2007-08
#250	54-72256-6116909	Charter Home School Academy	100%	100%
#362	27-66092-2730240	Learning for Life Charter School	100%	100%
#647	58-72744-0107144	Plumas Lake Charter School	100%	100%

The following determination of funding request is recommended for approval by the SBE for two years (2006-07 and 2007-08) at the 85 percent level. The reasons justifying this level in 2006-07 and beyond revolve around the school only having met the criteria specified in regulation for the 85 percent funding level. The school spent less than 40 percent on certificated staff compensation in 2006-07, resulting in an 85 percent recommended funding determination level (*CCR*, Title 5, Section 11963.4(a)(2). The charter school can address this problem in future funding determinations by increasing the school's total expenditures calculated for certificated staff compensation to 40 percent or more of total revenues.

Charter Number	CDS Code	Charter Name	2006-07	2007-08
#748	19-64584-0112110	Antelope Valley Desert Montessori Charter School	85%	85%

ITEM #29

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) assign charter numbers to the charter schools identified on the attached list.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for assigning a number to each approved charter petition. On the advice of legal counsel, CDE staff presents this routine request for assignment of charter numbers as a standard action item.

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 901 charter schools, including some approved by the SBE after denial by the local educational agencies. Separate from that numbering system, nine all-charter districts which have a total of 16 school sites, have been jointly approved by the State Superintendent of Public Instruction and the SBE. Of the 901charter schools numbered, approximately 618 are operating in the 2006-07 school year.

SUMMARY OF KEY ISSUES

The law allows for the establishment of charter schools. A charter school typically is approved by a local school district or county office of education. The entity that approves a charter is also responsible for ongoing oversight. A charter school must comply with all the provisions of its charter, but is exempt from many statutes and regulations governing school districts.

California *Education Code* Section 47602 requires the SBE to assign a number to each charter school that has been approved by a local entity in the chronological order in which it was received. This numbering ensures that the state stays within a statutory

SUMMARY OF KEY ISSUES (Cont.)

cap on the total number of charter schools authorized to operate. The statutory cap is not subject to waiver. During 2006-07, the statutory cap is 1,050. The charter schools listed in Attachment 1 were recently approved by local boards of education as noted. Copies of the charter petitions are on file in the Charter Schools Division.

FISCAL ANALYSIS (AS APPROPRIATE)

There is essentially no fiscal impact directly resulting from the assignment of numbers to recently authorized charter schools. To the extent numbered schools serve students, they report average daily attendance and receive funding from certain federal, state, and local sources.

ATTACHMENT(S)

Attachment 1: Assignment of Numbers for Charter School Petitions (2 Pages)

[Additional requests for charter school numbers will be provided as an addendum.

July 2007 STATE BOARD OF EDUCATION MEETING

Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
902	Hemet Academy for Applied Academics and Technology (HAAAT)	Riverside	Hemet USD	W. Rex Comer 2350 West Latham Avenue Hemet, CA 92545 951-765-5100
903	Norton Space and Aeronautics Academy	San Bernardino	San Bernardino COE	Rick Piercy 17500 Mana Road Apple Valley, CA 92307 760-946-5414
904	Twin Hills Middle School	Sonoma	Twin Hills USD	Catherine Bosch 1685 Watertrough Road Sebastopol, CA 95472 707-823-7446
905	Sky Mountain Charter School	San Bernardino	Lucerne Valley District	Susan Clark 1166 Broadway, Suite Q Placerville, CA 95667 530-295-3566
906	Magnolia Science Academy – San Pedro	Los Angeles	Los Angeles USD	Joseph Hurmali 867 West 10th Street San Pedro, CA 90731-4023 818-609-0507
907	West Sacramento Early College Prep	Yolo	Washington USD	Beth Kay 930 Westacre Road West Sacramento, CA 95691 916-730-8017

Number	Charter Name	County	Authorizing Entity	Charter School Contact
908	Stockton USD Virtual Learning Academy	San Joaquin	Stockton USD	Bonnie Mansfield 701 North Madison Street Stockton, CA 95202 209-933-7105
909	Antioch Charter Academy II	Contra Costa	Antioch USD	Jeannie Dubitsky 1201 West 10th Street Antioch, CA 94509 925-755-1252
910	River Oak Charter School	Mendocino	Ukiah USD	David Taxis 555 Leslie Street Ukiah, CA 95482 707-467-1855

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 11, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William Ellerbee, Deputy Superintendent
School and District Operations Branch

RE: Item No. 29

SUBJECT: Assignment of Numbers for Charter School Petitions

Attached are the additional requests for charter school numbers.

Attachment 1: Assignment of Numbers for Charter School Petitions (7 Pages)

JULY 2007 STATE BOARD OF EDUCATION MEETING

Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
911	Fenton Primary Center	Los Angeles	Los Angeles USD	Irene Sumida 11828 Gain St. Lake View Terrace, CA 91342 818-896-7482
912	Village Charter School	Sonoma	Windsor USD	Annie Millar 1281 Edwards Ave. Santa Rosa, CA 94501 707-591-9262
913	Fairmont Charter School	Solano	Vacaville USD	Tom Armstrong 1355 Marshall Road Vacaville, CA 95687 707-453-6240
914	School of Extended Educational Options	Los Angeles	Pomona USD	Enrique Medina, Jr. 1460 E. Holt Blvd. Ste. 172 Pomona, CA 91766 909-397-4800
915	Los Angeles County Online High School	Los Angeles	Antelope Valley Union High School District	Brain Rose 309 SW Sixth St., Ste. 820 Portland, OR 97204 503-414-5314
916	Ánimo College Preparatory High School #7	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276

Number	Charter Name	County	Authorizing Entity	Charter School Contact
917	Magnolia Science Academy – Venice	Los Angeles	Los Angeles USD	Joseph Hurmali 2232 Lincoln Blvd. Venice, CA 92119 818-609-0507
918	Ánimo College Preparatory High School #4	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
919	Ánimo College Preparatory High School #1	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
920	Redding School of the Arts II	Shasta	Gateway USD	Jean Hatch 2200 Eureka Way Redding, CA 96001 530-515-2487
921	Ánimo College Preparatory High School #9	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
922	Ánimo College Preparatory High School #8	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
923	Ánimo College Preparatory High School #11	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276

Number	Charter Name	County	Authorizing Entity	Charter School Contact
924	Ánimo College Preparatory High School #12	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
925	Ánimo College Preparatory High School #10	Los Angeles	Los Angeles USD	Dan Chang Locke High School Attendance Area in Local District 7 213-621-0276
926	College Ready Academy High School #7	Los Angeles	Los Angeles USD	Judy Burton Fremont High School Attendance Area, Local District 7 213-943-4930
927	College Ready Academy High School #8	Los Angeles	Los Angeles USD	Judy Burton Fremont High School Attendance Area, Local District 7 213-943-4930
928	College Ready Academy High School #9	Los Angeles	Los Angeles USD	Judy Burton Fremont High School Attendance Area, Local District 7 213-943-4930
929	College Ready Academy High School #10	Los Angeles	Los Angeles USD	Judy Burton Fremont High School Attendance Area, Local District 7 213-943-4930
930	Northeast Preparatory and Performing Arts Academy	Humboldt	Humboldt County Office of Education	Dr. Jean Bazemore PO Box 276 Arcata, CA 95518 707-822-0861

Number	Charter Name	County	Authorizing Entity	Charter School Contact
931	Monsenor Oscar Romero Charter Middle School	Los Angeles	Los Angeles USD	Ana Cubas Pico Union Area of Los Angeles – Local District 4 213-688-2802
932	Visual and Performing Arts Charter School	Sacramento	Sacramento City USD	Mike Hall 5735 47th Ave., Box 800 Sacramento, CA 95824 916-752-3100
933	Rosie the Riveter Charter High School	Los Angeles	Long Beach USD	Alexandra Torres Galancid 690 N. Studebaker Rd. Long Beach, CA 90803 562-431-0302
934	Global Education Academy	Los Angeles	Los Angeles USD	Chin Kim 4141 S. Figueroa St. Los Angeles, CA 90037 310-487-7799
935	The Design High School	Los Angeles	Los Angeles USD	Susan Mas 6000 N. Figueroa St. Los Angeles, CA 90037 714-470-2845
936	Ivy Bound Academy	Los Angeles	Los Angeles USD	Kiumars Arzani 15355 Morrison St. Sherman Oaks, CA 91403 818-625-0319
937	Center for Advanced Learning	Los Angeles	Los Angeles USD	Joan Faqir 4016 S. Central Ave. Los Angeles, CA 90011 310-674-2034

Number	Charter Name	County	Authorizing Entity	Charter School Contact
938	Kipp Bridge Charter School	Alameda	Oakland USD	David Ling 991 14th Street Oakland, CA 94607 510-225-8986
939	California Virtual Academy at San Joaquin	San Joaquin	Stockton USD	Katrina Outfleet 2360 Shasta Way, Unit B Simi Valley, CA 93065 805-581-0202
940	Vallejo Charter School	Solano	Vallejo City USD	Elizabeth Weinberg 6297 Newhaven Lane Vallejo, CA 94591 415-457-3200 ext. 165
941	Salmon Creek School – A Charter School	Sonoma	Harmony Union School District	Ann Hayes 1935 Bohemian Hwy Occidental, CA 95465 707-874-3280
942	West County Community High School	Contra Costa	West Contra Costa USD	Gary Einhorn 1615 Carlson Blvd. Richmond, CA 94804 510-734-8819
943	Camarillo Academy of Progressive Education	Ventura	Oxnard Union High School District	Doreen Learned 704 North Loop Drive Camarillo, CA 93010 804-388-0899
944	Full-Circle Learning Academy	Los Angeles	Los Angeles USD	Teresa Langness 19609 Vision Dr. Topanga, CA 90290 310-455-3909

Number	Charter Name	County	Authorizing Entity	Charter School Contact
945	CORE Butte Charter School	Butte	Butte County Office of Education	Janis Jablecki 848 Gold Flat Rd., Ste. 3 Nevada City, CA 95959 530-478-9458
946	Golden Valley Charter School of Sacramento	Sacramento	San Juan USD	Deborah Lenny 9601 Lake Natoma Dr. Orangevale, CA 95662 916-987-6141
947	Sierra Montessori Academy	Nevada	Nevada County Office of Education	Stan Miller 18847 Oak Tree Road Nevada City, CA 95959
948	East Bay Conservation Corps Corpsmember Academy	Alameda	Oakland USD	Kate Mahar 1021 3rd Street Oakland, CA 94607 510-407-7725
949	Discovery Charter Preparatory School #2	Los Angeles	Los Angeles USD	Matthew Macarh 12550 Van Nuys Blvd. Pacoima, CA 91331 818-897-1187
950	Pacifica Community Charter School #2	Los Angeles	Los Angeles USD	Beth Abels 3754 Dunn Dr. Los Angeles, CA 90034 310-845-9405
951	Thurgood Marshall Middle School	Los Angeles	Los Angeles USD	Michael D. Piscal 5150 W. Goldleaf Circle, Ste. 401 Los Angeles, CA 90056 323-290-6900

Number	Charter Name	County	Authorizing Entity	Charter School Contact
952	Thurgood Marshall High School	Los Angeles	Los Angeles USD	Michael D. Piscal 5150 W. Goldleaf Circle, Ste. 401 Los Angeles, CA 90056 323-290-6900
953	Urban Academy Middle School	Los Angeles	Los Angeles USD	Michael D. Piscal 5150 W. Goldleaf Circle, Ste. 401 Los Angeles, CA 90056 323-290-6900
954	Urban Academy High School	Los Angeles	Los Angeles USD	Michael D. Piscal 5150 W. Goldleaf Circle, Ste. 401 Los Angeles, CA 90056 323-290-6900

ITEM # 30

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Implementation of Assembly Bill 1802, Chapter 79, Statutes of 2006: Approve Release of Funds for Supplemental Materials for English Learners	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the release of funds, to a list of districts that will be provided in an item addendum, for the purpose of purchasing supplemental materials for English learner (EL) students.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

July 6, 2005, and September 8, 2005: The SBE took action to approve the release of funds to a list of districts under the provisions of Senate Bill (SB) 1113, Chapter 208, Statutes of 2004, Item 6110-189-0001 for the purpose of purchasing supplemental materials for English learner (EL) students.

SUMMARY OF KEY ISSUES

In July 2006, Governor Schwarzenegger approved $30 million for Supplemental Instructional Materials for English Learners–Assembly Bill (AB) 1802 Chapter 79, Statutes of 2006. AB 1802 reflects the provisions of SB 1113 with similar requirements and timeline.

Eligibility for AB 1802 Funding
The provisional language in AB 1802 contains the conditions under which a local education agency (LEA) shall be eligible for apportionment funding of up to $25 per pupil, based on the most recently certified language census number of ELs in kindergarten and grades one through twelve. The funds shall be used to purchase supplemental materials that are designed to help English learners become more proficient in reading, writing, and speaking English. These materials may only be used in addition to the standards-aligned materials adopted by the SBE. LEAs may purchase any materials that the CDE verifies and the SBE approves that are substantially correlated to the identified state English Language Arts (ELA) and English Language Development (ELD) content standards. LEAs may expend no more than $30 per pupil for these materials. The CDE will determine the per pupil allocation once the participating LEAs submit their forms.

SUMMARY OF KEY ISSUES (Cont.)

Participation Process

LEAs participating in AB 1802 do one or both of the following:

- Submit an **Intent to Purchase Form** (ITPF) for materials identified from the existing list of AB 1802 supplemental materials and specify the publisher and contact information, title of components, International Standard Book Number (ISBN), grade level, and the number of pupils for which the materials are being purchased. The certified AB 1802 list is posted on the CDE Web site at http://www.cde.ca.gov/ci/cr/cf/englearnrs.asp, and currently consists of materials previously approved under SB 1113.

- Submit a **Request to Review New Materials Form** (RTRNMF) and specify the publisher and contact information, title of components, ISBNs, grade level, and the number of pupils for which the materials are being purchased.

The LEA's funding will be based on the number of LEAs that submitted the ITPF and/or RTRNMF forms to participate in this one-time allocation. Districts had until April 5, 2007, to submit their forms to the CDE. Once the funds are released by the SBE, districts have until June 30, 2009, to encumber them.

In addition to specifying the funding formula for this one-time allocation, AB 1802 also outlines several key conditions governing these funds:

- CDE is to use the existing correlation matrices developed for SB 1113 implementation to determine if the instructional materials correlate to the English language arts and the English language development standards adopted by the SBE

- LEAs are to identify materials from the existing list of materials approved by the SBE, under SB 1113

- CDE staff is to organize and coordinate the review of new programs with ELA/ELD experts

- Funds are to be released by the SBE to the LEAs

Timeline of AB 1802 Implementation

October 2006

A letter from State Superintendent of Public Instruction Jack O'Connell to County and District Superintendents and Governing Board Presidents outlines the AB 1802 provisions, and includes a timeline for implementation of those provisions, and the Web site for the AB 1802 Certified List of existing materials that were previously approved by the SBE under SB 1113.

SUMMARY OF KEY ISSUES (Cont.)

Timeline of AB 1802 Implementation (Cont.)

April 5, 2007
The due date for LEAs and Counties Of Education (COEs) to provide the CDE with the ITPF or the RTRNMF.

May–June 2007
The CDE conducts the review of new materials for alignment to the correlation matrices. The first review was conducted at the Orange COE on May 2-5, 2007, the second was conducted at the Kern COE on May 22-24, 2007, the third was held at the Orange COE on June 27-29, 2007.

July–September 2007
The SBE takes action to approve district funds for the purchase of supplementary instructional materials.

November–December, 2007
The CDE allocates funds to the LEAs to purchase supplementary instructional materials that have been requested in their ITPF and/or RTRNMF.

June 30, 2009
The deadline for the LEAs to encumber funds.

FISCAL ANALYSIS (AS APPROPRIATE)

The Legislature appropriated funds for the CDE to implement this provisional Budget Act language.

ATTACHMENT(S)

Attachment 1: AB 1802 Intent to Purchase (20 pages)

Attachment 2: AB 1802 Request to Review Summary Report (35 pages)

Both attachments represent lists of districts recommended by the CDE to receive funds for the purchase of supplemental materials for English learners.

AB 1802 Intent to Purchase Summary Report

County	District	District Code
Alameda		
	Alameda Unified School District	61119
	Berkeley USD	61143
	Berkeley USD	60903
	Castro Valley Unified School District	61150
	Dublin	75093
	Emery Unified School District	61168
	Fremont USD	61176
	Hayward USD	61192
	Leadership Public School – Hayward	76380
	Leadership Public School – Oakland	61259
	Livermore	61200
	New Haven Unified School District	61242
	Newark USD	61234
	Oakland USD	61259
	Piedmont USD	61275
	Pleasanton USD	75101
	San Leandro	61291
	San Lorenzo Unified School District	61309
Butte		
	Butte County Office of Education	10041
	Durham USD	61432
	Gridley USD	75507
	Gridley USD	75507
	Oroville Union High SD	61515
	Paradise Unified	61531
	Thermalito Union School District	61549
Calaveras		
	Mark Twain Union Elementary SD	61572
Colusa		
	Pierce Joint Unified	61614
	Williams USD	61622
Contra Costa		

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Antioch USD	61648
	Brentwood USD	61655
	John Swett Unified	61697
	Lafayette SD	61713
	Leadership Public Schools- Richmond	61796
	Martinez Unified	61739
	Mt. Diablo USD	61754
	Oakley Union	61762
	Orinda Union School District	61770
	Pittsburg Unified School District	61788
	San Ramon Valley Unified School District	61804
	Walnut Creek School District	61812
	West Contra Costa Unified	61796
Del Norte		
	Del Norte USD	61820
El Dorado		
	Camino Union Elementary	61846
	El Dorado County Office of Education	10090
	El Dorado Union High School District	61853
	Gold Oak School District	61879
	Gold Trail Union	61887
	Lake Tahoe Unified	61903
	Mother Lode Union Elementary School District	61929
	Pioneer Elementary Union SD	61945
	Placerville Union School District	61952
	Pollock Pines Elementary	61960
	Rescue USD	61978
Fresno		
	American Union SD	62000
	Central USD	73965
	Coalinga-Huron USD	62125
	Firebaugh Las Deltas USD	73809
	Fowler USD	62158
	Fresno County Office of Education	10108

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Fresno Unified School District	62166
	Kerman Unified	73999
	Kings Canyon Joint Unified	62265
	Kingsburg Elementary	62240
	Laton Unified School District	62281
	Orange Center School District	62331
	Parlier School District	62364
	Riverdale Joint USD	75408
	Sanger Unified SD	62414
	Sanger USD	62414
	Selma	62430
	Washington Colony Elementary School	62513
	Washington Union High School District	62521
	West Fresno Elementary School District	62174
	West Park Charter Academy	62539
	West Park Elementary School District	62539
Glenn		
	Orland Joint USD	75481
Humboldt		
	South Bay Union Elementary	63032
Imperial		
	Brawley Elementary SD	63073
	Brawley Union High School District	63081
	Calexico USD	63099
	Calipatria Unified School District	63107
	Central Union HSD	63115
	El Centro Elementary School District	63123
	Heber Elementary SD	63131
	Imperial County Office of Education	13101
	Imperial Unified School District	63164
	McCabe Union Elementary School	63180
	Meadows Union SD	63198
	San Pasqual Valley Unified School District	63214
Inyo		

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Bishop Joint Union HSD	63263
	Bishop Union Elementary SD	63255
Kern		
	Arvin Union School District	63313
	Bakersfield City School District	63321
	Beardsley School District	63339
	Delano Joint Union High School District	63412
	Delano Union SD	63404
	Di Giorgio School District	63420
	Edison Elementary School District	63438
	El Tejon USD	75168
	Fairfax	64361
	Fruitvale Elementary	63479
	General Shafter School District	63487
	Greenfield Union School District	63503
	Kern County Office of Education	10157
	Lamont Elementary SD	63560
	Lost Hills Union School District	63594
	McFarland	73908
	Mojave USD	63677
	Panama-Buena Vista Union School District	63362
	Rosedale Union School District	63750
	Sierra Sands USD	72742
	Southern Kern Unified School District	63776
	Taft City School District	63800
	Taft Union High School District	63818
	Tehachapi Unified	63826
	Vineland Elementary	63834
	Wasco Union Elementary	63842
	Wasco Union High SD	63859
Kings		
	Armona Union Elementary	63875
	Central Union Elementary School District	63883
	Corcoran Unified	63891

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Hanford Joint Union High School District	63925
	Island Union SD	63933
	Kings River-Hardwick School District	63941
	Kit Carson Union School District	63958
	Lakeside Union Elementary SD	63966
	Lemoore UESD	63974
	Pioneer Union Elementary District	63990
	Reef-Sunset Unified School District	73935
Lake		
	Kelseyville USD	64014
	Konocti USD	64022
	Lakeport Unified	64030
Los Angeles		
	ABC USD	64212
	Alhambra USD	75713
	Animo Leadership Charter High School	64709
	Animo South LA Charter High School	64733
	Animo Venice Charter High School	64733
	Antelope Valley Union High SD	64246
	Arcadia Unified	64261
	Azusa USD	64279
	Baldwin Park USD	64287
	Bassett SD	64295
	Bellflower Unified School District	64303
	Beverly Hills Unified	64311
	Bonita USD	64329
	Burbank Unified School District	64337
	Castaic Union School District	64345
	Centinela Valley Union HSD	64352
	Charter Oak USD	64378
	Claremont Unified School District	64394
	Covina-Valley USD	64436
	Culver City USD	64444
	Downey Unified	64451

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Duarte Unified	64469
	East Whittier Charter SD	64485
	El Monte Cuty School District	64501
	El Rancho USD	64527
	Fenton Avenue Charter School	60170
	Garvey	64550
	Glendale USD	64568
	Glendora USD	64576
	Hacienda La Puente USD	73445
	Hermosa Beach City School District	64600
	Inglewood Unified School District	60016
	Keppel USD	64642
	La Canada Unified School District	64659
	Lancaster School District	64667
	Las Virgenes USD	64683
	LAUSD Charter School	64733
	Lawndale Elementary SD	64691
	Lennox Elementary School District	64709
	Little Lake City SD	64717
	Long Beach	64725
	Los Angeles County Office of Education	10199
	Los Angeles USD	64733
	Los Nietos School District	64758
	Lowell Joint SD	64766
	Lynwood USD	64774
	Manhattan Beach Unified School District	75333
	Monrovia Unified	64790
	Montague Charter Academy	60182
	Montebello USD	64808
	Mountain View School District	64816
	Multicultural Learning Center (Charter School)	64733
	Newhall School District	64832
	Norwalk-La Mirada Unified School District	64840
	Oscar de La Hoya Animo	64733

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Palmdale School District	64578
	Palos Verdes Peninsula USD	64865
	Pasadena Unified School District	64881
	Redondo Beach Unified School District	75341
	Rosemead SD	64931
	Rowland Unified School District	73452
	San Gabriel Unified SD	75291
	San Marino USD	64964
	Santa Monica – Malibu USD	64980
	Santa Monica Blvd. Community Charter School	64733
	Saugus Union	64998
	South Pasadena Unified School District	65029
	South Whittier	65037
	Sulphur Springs SD	65045
	Synergy Charter Academy	64733
	Temple City USD	65052
	Torrance Unified School District	65060
	Valle Lindo	65078
	Walnut Valley Unified	73460
	West Covina USD	65094
	Westside USD	65102
	Whittier City School District	65110
	Whittier Union High School	65128
	William S. Hart Union High School District	65136
	Wilsona SD	65151
Madera		
	Alview Dairyland	65177
	Chawanakee Unified School District	75606
	Chowchilla SD	65193
	Chowchilla Union High School District	65201
	Ezequiel Tafoya Academy in Madera	65243
	Golden Valley USD	75580
	Madera County Office of Education	10207
	Madera Unified School District	65243

AB 1802 Intent to Purchase Summary Report

County	District	District Code
Marin		
	Dixie School District	65318
	Larkspur Elementary	65367
	Mill Valley Elementary SD	65391
	Novato USD	65417
	Ross Valley	75002
	San Rafael Elementary District	65458
	San Rafael High School District	65466
	Tamalpais Union High School District	65482
Mariposa		
	Marisposa County USD	65532
Mendocino		
	Accelerated Achievement Academy	65616
	Anderson Valley USD	65540
	FBUSD	65565
	Point Arena Joint Union High School	65599
	Redwood Academy of Ukiah	65615
	Ukiah Unified	65615
	Willits USD	65623
Merced		
	Atwater Elementary SD	65631
	Dos Palos-Oro Loma Joint USD	75317
	Gustine Unified	73619
	Hilmar USD	65698
	Livingston USD	65748
	Los Banos Unified School District	65755
	McSwain Elementary School	65763
	Merced City Elementary SD	65771
	Merced County Office of Education	10249
	Merced River School District	73726
	Merced Union High School District	65789
	Plandada Elementary School District	65821
	Snelling Merced Falls	60257
	Weaver USD	65862

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Winton School District	65870
Mono		
	Mammoth Unified	73692
	Mono County Office of Education	10264
Monterey		
	Chualar Union Elementary	65995
	Graves	66027
	Greenfield Union School District	66035
	King City Joint Union High School District	66068
	Kings City Union School District	66050
	Mission	66084
	Monterey County Office of Education	10272
	Monterey Peninsula Unified	66092
	North Monterey County Unified School District	73825
	Pacific Grove Unified School District	66134
	Peninsula Unified School District	10272
	Salinas City Elementary	66142
	Salinas Union High School	66159
	Santa Rita Union Elementary	66191
	Soledad Unified SD	75440
	Spreckels Union SD	66225
Napa		
	Napa Valley Unified School District	66266
	St. Helena USD	66290
Orange		
	Anaheim School District	66423
	Anaheim Union High School District	60589
	Anaheim Union High SD	66431
	Brea Olinda USD	66449
	Buena Park SD	66456
	Capistrano USD	66464
	Centralia School District	66472
	Cypress School District	66480
	Fullerton Joint Union High School District	66514

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Fullerton School District	66506
	Huntington Beach City Elementary SD	66530
	Huntington Beach UHSD	66548
	Irvine USD	73650
	La Habra City School District	66563
	Laguna Beach USD	66555
	Los Alamitos USD	73924
	Magnolia SD	66589
	Newport-Mesa USD	66597
	Ocean View Elementary School District	66613
	Orange County Department of Education	10306
	Orange Unified SD	66621
	Placentia-Yorba Linda USD	66647
	Public Charter School (Santa Ana)	306667
	Saddleback Valley USD	73635
	Santa Ana USD	66670
	Savanna Elementary School District	66696
	Tustin Unified School District	73643
	Westminster	66746
Placer		
	Auburn Union SD	66787
	Dry Creek Joint Elementary School District	66803
	Eureka Union SD	66829
	Placer Union High SD	66894
	Roseville City School District	66910
	Tahoe Truckee Unified	66944
	Western Placer Unified School District	66951
Riverside		
	Alvord Unified School District	66977
	Banning USD	66985
	Beaumont Unified	66993
	Coachella Valley USD	73676
	Corona-Norco Unified School District	67033
	Desert Sands USD	67058

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Hemet USD	67082
	Jurupa Unified SD	67090
	Lake Elsinore USD	75176
	Menifee Union School District	67116
	Moreno Valley USD	67124
	Murrieta Valley Unified School District	75200
	Nuview Union school District	67157
	Palm Springs Unified School District	67173
	Palo Verde USD	67181
	Perris Elementary School District	67199
	Perris Union High	67207
	Riverside Unified SD	67215
	Romoland SD	67231
	San Jacinto USD	67249
	Temecula Valley USD	75192
	Val Verde USD	75242
Sacramento		
	Arcohe Union School District	67280
	Center Unified	73973
	Del Paso Heights School District	67306
	Delta Unified School District	67413
	Folsom Cordova USD	67330
	Galt Joint Union Elementary School District	67348
	Grant Joint Union High School District	67363
	Language Academy of Sacramento	67439
	Natomas Unified	75283
	North Sacramento	67397
	Rio Linda USD	67405
	Robla School District	67421
	Sacramento City USD	67439
	St. Hope Public Schools	67439
San Benito		
	Aromas San Juan USD	75259
	Hollister SD	67470

County	District	District Code
	North County Joint Union SD	67504
	San Benito High School	67538
San Bernardino		
	Alta Loma	67595
	Apple Valley Unified School District	75077
	Barstow	67611
	Bear Valley Unified School District	67637
	Central School District	67645
	Chaffey Joint Union High School District	67652
	Chino Valley USD	67678
	Colton Joint USD	67686
	Cucamonga Elementary	67694
	Fontana Unified School District	67710
	Hesperia Unified School District	75044
	Mountain View School District	67785
	Ontario-Montclair School District	67819
	Redlands Unified	67843
	Rim of the World	67868
	San Bernardino City Unified School District	67876
	San Bernardino City USD-Case Ramona Acade	67876
	San Bernardino County Superintendents of Sch	10363
	Snowline Joint USD	73957
	Upland Unified School District	75069
	Victor Elementary School District	67918
	Victor Valley Union High SD	67934
	Yucaipa-Calimesa Joint Unified School District	67959
San Diego		
	Alpine Union Elementary	67967
	Bonsall Union SD	67975
	Borrego Springs Unified	67983
	Cajon Valley USD	67991
	Cardiff Elementary School District	68007
	Carlsbad USD	73551
	Chula Vista Elementary School District	68023

AB 1802 Intent to Purchase Summary Report

County	District	District Code
	Darnell Charter School	68338
	Del Mar Union School District	68056
	Discovery Charter School/Chula Vista Elem.SD	68023
	Eagles Peak Charter	68171
	Eje Elementary Academy	67991
	Encinitas Union School District	68080
	Escondido Union High School District	68106
	Escondido Union School District	68098
	Fallbrook Union Elementary SD	68114
	Grossmont Union High SD	68130
	Iftin Charter School	68338
	Julian Union High SD	68171
	Julian Union School District	68163
	La Mesa-Spring Valley School District	68197
	Lakeside Union School District	68189
	Lemongrove SD	68205
	National School District	68270
	O'Farrell Community School	68338
	Oceanside Unified School District	73569
	Poway Unified SD	68296
	Ramona City USD	68304
	San Diego County Office of Education	10371
	San Diego Unified	68338
	San Diego USD –Promise Charter	61209
	San Dieguito Union High School District	68346
	San Marcos Unified SD	73791
	San Pasquel Union School	68353
	San Ysidro SD	68379
	Santee Elementary School District	68361
	Solana Beach SD	68387
	South Bay Union School District	68395
	Sweetwater Union High School District	68411
	The Charter School of San Diego	68338
	Valley Center Pauma Unified School District	75614

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County	District	District Code
	Vista USD	68452
San Francisco		
	San Francisco Unified School District	68478
San Joaquin		
	Escalon Unified	68502
	Jefferson Elementary School District	68544
	Lincoln Unified SD	68569
	Linden Unified School District	68577
	Lodi Unified School District	68585
	Manteca Unified School District	68593
	New Jerusalem	68627
	Oak View Union Elementary	68635
	Ripon Unified	68650
	Stockton Unified School District	68676
	Tracy Joint USD	75499
San Luis Obispo		
	Atascadero USD	68700
	Coast USD	75465
	Grizzly Challenge Charter School	10450
	Lucia Mar USD	68759
	Paso Robles Public Schools	75457
	Pleasant Valley Joint Union Elementary	68791
	San Luis Coastal Unified School District	68809
	San Miguel Joint Union School District	68825
	Shandon Joint Unified	68833
San Mateo		
	Bayshore	68858
	Burlingame Elementary School District	68882
	Garfield Charter School	60444
	Jefferson Elementary	68916
	Jefferson Union High SD	68924
	Menlo Park City School District	68965
	Millbrae School District	68973
	Ravenswood City School District	68999

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County	District	District Code
	Redwood City School District	69005
	San Bruno Park SD	69013
	San Mateo Foster City	69039
	San Mateo Union High School District	69047
	Sequoia Union High School District	69062
	South San Francisco USD	69070
	Stanford New School	68999
Santa Barbara		
	Carpinteria Unified	69146
	Cuyama Joint USD	75010
	Goleta Union School District	69195
	Lompoc USD	69229
	Orcutt Union School District	69260
	Santa Barbara County Office of Education	30207
	Santa Barbara School Districts	76406
	Santa Barbara School Districts	69286
	Santa Maria Joint Union High SD	69310
	Santa Maria-Bonita SD	69120
Santa Clara		
	Alum Rock Elementary SD	69369
	Berryessa Union School District	69377
	Cambrian SD	69385
	Campbell Union Elementary School District	69393
	Campbell Union High School District	69401
	Cupertino Union School	69419
	Discovery Charter School	10439
	East Side Union HSD	69427
	Evergreen	69435
	Franklin-McKinley	69450
	Fremont Union High SD	69468
	Gilroy Unified	69484
	Leadership Public School –Campbell	10439
	Leadership Public School –San Jose	10439
	Los Altos Elementary	69518

County	District	District Code
	Luther Burbank School District	69542
	Milpitas USD	73387
	Moreland SD	69575
	Morgan Hill USD	69583
	Mount Pleasant Elementary School District	69617
	Mountain View Whisman	69591
	Oak Grove School District	69625
	Orchard SD	69633
	Palo Alto Unified School District	69641
	San Jose USD	69666
	Santa Clara	69674
	Saratoga Union Elementary	69682
	Sunnyvale Elementary School District	69690
	Union Elementary	69708
Santa Cruz		
	Live Oak School District	69765
	Pajaro Valley USD	69799
	San Lorenzo Valley USD	69807
	Santa Cruz City Schools	69815
	Santa Cruz County Office of Education	74430
	Scotts Valley Unified	75432
	Soquel Union Elementary School District	69849
Shasta		
	Cascade Union Elementary School District	69914
	Enterprise Elementary School District	69971
	Oak Run SD	70086
Siskiyou		
	Weed Union Elementary	70482
	Yreka USD	70508
Solano		
	Dixon USD	70532
	Fairfield-Suisun USD	70540
	MIT Academy Charter HS	70581
	MIT Academy Charter Middle School	70581

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County	District	District Code
	Travis Unified School District	70565
	Vallejo Unified SD	70581
Sonoma		
	Bellevue Union Elementary	70615
	Cinnabar Elementary School District	70649
	Cloverdale	70656
	Cotati-Rohnert Park USD	73882
	Forestville USD	70680
	Geyserville Unified	70706
	Guerneville School District	70722
	Healdsburg Unified	75390
	Mark West Union SD	70805
	Oak Grove Union	70839
	Old Adobe Union SD	70847
	Petaluma City Elementary	70854
	Petaluma Joint Union High School	70862
	Piner-Olivet School District	70870
	Rincon Valley Union SD	70896
	Roseland School District	70904
	Santa Rosa City Schools	70920
	Santa Rosa Elementary School District	70912
	Sebastopol Union School District	70938
	Sonoma County Office of Education	10496
	Sonoma Valley USD	70953
	Twin Hills Union	70961
	Two Rock Union School District	70979
	West Sonoma County Union High School Distric	70607
	Windsor Unified SD	75358
	Wright Elementary	71035
Stanislaus		
	Ceres Unified	71043
	Chatom USD	71050
	Denair Unified School District	71068
	Empire Union School District	71076

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County	District	District Code
	Hickman Community Charter District	71100
	Hughson USD	75549
	Keyes Union Elementary	71134
	Modesto City Schools	40717
	Newman Crows Landing USD	73607
	Oakdale Joint Unified School District	75564
	Patterson Joint USD	71217
	Riverbank USD	75556
	Salida Union School District	71266
	Stanislaus County Office Of Education	10504
	Stanislaus Union SD	71282
	Sylvan	71290
	Turlock Schools	75739
	Waterford Unified	75572
Sutter		
	Live Oak USD	71399
	Yuba City Unified School District	71464
Tehama		
	Evergreen Union School District	71522
	Gerber Union Elementary School District	71548
	Los Molinos Unified	71571
	Richfield Elementary	71654
Tulare		
	Alpaugh USD	71803
	Alta Vista Elementary School District	60538
	Burton Elementary School District	71837
	Cutler-Orosi Joint USD	78160
	Dinuba USD	75531
	Earlimart SD	71902
	Exeter Union SD	71910
	Farmersville USD	75325
	Kings River Union Elementary School	71969
	Lindsay USD	71993
	Oak Valley Union Elementary School District	72017

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County	District	District Code
	Palo Verde Union Elementary	72033
	Pixley Union Elementary School District	72041
	Porterville Unified School District	75523
	Strathmore Union Elementary School District	72157
	Sundale Union Elementary	72173
	Tipton Elementary	72215
	Tulare City School District	72231
	Visalia Unified School District	72256
	Woodlake Union High School District	72280
	Woodlake Union School District	72272
Tuloumne		
	Sonora Elementary	72371
Tuolumne		
	Jamestown	72363
Ventura		
	Conejo Valley Unified	73759
	Fillmore USD	72454
	Hueneme SD	72462
	Moorpark Unified School District	73940
	Ocean View	72512
	Ojai Unified School District	72520
	Oxnard SD	72538
	Oxnard Union High School District	72546
	Pleasant Valley Elementary School District	72553
	Rio School District	72561
	Santa Paula Elementary	72587
	Santa Paula Union HS	72595
	Simi Valley Unified	72603
	Somis Union School District	72611
	University Charter Middle at CSU Channel Islan	72553
	Ventura USD	72652
Yolo		
	Davis Joint USD	72678
	Washington Unified	72694

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County	District	District Code
	Winters Joint Unified School District	72702
	Woodland	72710
Yuba		
	Marysville joint Unified School District	72736

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County: **Alameda**

District: **Alameda USD**

Publisher:	Program:
National Geographic/Hampton Brown	Various
Pearson Longman	Grammar Express

District: **Emery USD**

Publisher:	Program:
CTB/McGraw Hill	Instructional Guide
Pearson Longman	Dictionaries

District: **Fremont USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

District: **Hayward USD**

Publisher:	Program:
Ballard & Tighe	Various

District: **Leadership Public School Oakland**

Publisher:	Program:
Oxford University Press	Various
Pearson Longman	Various

District: **Livermore Valley Joint USD**

Publisher:	Program:
Cambridge University Press	From Writing to Composing
National Geographic/Hampton Brown	Good Writers Kit
Rosen Classroom	Journeys

District: **New Haven USD**

Publisher:	Program:
Benchmark Education Company	English Explorers
First Choice Education Group	Education Workout
National Geographic/Hampton Brown	Various
Teacher Created Materials	Various
Thomas Heinle	Visions

District: **Newark USD**

Publisher:	Program:
Leapfrog School House	Picture Dictionary

	National Geographic/Hampton Brown	Folktale Library
District:	**Oakland USD**	
	Publisher:	**Program:**
	Thomas Heinle	Various
District:	**Piedmont USD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	English Learner
District:	**San Leandro USD**	
	Publisher:	**Program:**
	Ballard & Tighe	Picture Dictionaries
	Thomas Heinle	Grammar in Context
District:	**San Lorenzo USD**	
	Publisher:	**Program:**
	Harcourt Achieve/Steck-Vaughn	Various
	Houghton Mifflin	Various
	Leapfrog School House	Various
	National Geographic/Hampton Brown	Various
	Read Naturally, Inc	nothing noted
	Wilson Language	Deluxe set
County:	**Butte**	
District:	**Chico USD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Avenues
	National Geographic/Hampton Brown	EDGE
	National Geographic/Hampton Brown	Grammar Practice Books
District:	**Gridley USD**	
	Publisher:	**Program:**
	Heinemann Classrooms	Various
District:	**Oroville City Elementary SD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Avenues
County:	**Contra Costa**	
District:	**Acalanes Union HS**	
	Publisher:	**Program:**

	National Geographic/Hampton Brown	EDGE
District:	**Antioch USD**	
	Publisher:	**Program:**
	Thomas Heinle	Visions
District:	**Lafayette SD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	ELD Language Libraries
District:	**Leadership Public School Richmond**	
	Publisher:	**Program:**
	Oxford University Press	Various
	Pearson Longman	Focus on Grammar
District:	**Martinez USD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Various
District:	**Mount Diablo USD**	
	Publisher:	**Program:**
	Ballard & Tighe	Carousel of IDEAS
	National Geographic/Hampton Brown	EDGE
District:	**Pittsburg USD**	
	Publisher:	**Program:**
	Pearson Longman	Various
	San Diego COE	The WRITE Institute
District:	**San Ramon Valley USD**	
	Publisher:	**Program:**
	Benchmark Education Company	English Explorers
	By George! Publishing	Various
	Peoples Education	Measuring Up
	Rosen Classroon	Graphica
	Thomas Heinle	Gateway to Science
District:	**West Contra Costa USD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Various
	San Diego COE	The WRITE institute

County: Del Norte

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District: **Del Norte County USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
National Geographic/Hampton Brown	Language, Literacy and Vocabulary

County: **Fresno**

District: **American Union SD**

Publisher:	Program:
Santillana USA Publishing	English Benchmark

District: **Central USD**

Publisher:	Program:
HEC Reading Horizons	Discover Intensice Phonics for Yourself

District: **Clay Joint Elementary**

Publisher:	Program:
Great Source Education Group	New Generation Write Source

District: **Clovis USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

District: **Kings Canyon JUSD**

Publisher:	Program:
First Choice Education Group	Academic Workout
National Geographic/Hampton Brown	Various

District: **Mendota USD**

Publisher:	Program:
Renaissance Learning	In a Flash

District: **Orange Center SD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

District: **Riverdale Joint USD**

Publisher:	Program:
Harcourt Achieve	Various
National Geographic/Hampton Brown	Various

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District: **Sangar USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
Peoples Education	Measuring Up

District: **Washington Union High SD**

Publisher:	Program:
Pearson Longman	Dictionaries

District: **West Fresno Elementary SD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

County: Glenn

District: **Orland USD**

Publisher:	Program:
Benchmark Education Company	English Explorers
Red Brick Learning	Science/Social Studies Unit

County: Imperial

District: **Brawley Elementary SD**

Publisher:	Program:
Santillana USA Publishing	Camp Can-Do

District: **Calexico**

Publisher:	Program:
Renaissance Learning	English in a Flash
Santillana USA Publishing	Camp Can-Do

District: **Calipatria USD**

Publisher:	Program:
Pearson Longman	Longman Dictionary
Sopris West	Step Up to Writing

District: **Heber Elementary SD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

District: **Imperial USD**

Publisher:	Program:
Options Publishing	Various

	Renaissance Learning	English in a Flash
District:	**Westmorland Union Elementary**	
	Publisher:	**Program:**
	Sopris West	Step Up to Writing

County: Kern

District:	**Arvin USD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Various
District:	**Bakersfield City SD**	
	Publisher:	**Program:**
	LitConn	English Now C
	Thomas Heinle	Dictionaries
District:	**Beardsley SD**	
	Publisher:	**Program:**
	Harcourt Achieve	Elements of Reading
District:	**Delano Joint UHSD**	
	Publisher:	**Program:**
	Thomas Heinle	Mini-readers
District:	**Edison Elementary SD**	
	Publisher:	**Program:**
	Teacher Created Materials	Building Vocabulary
District:	**Hanford Elementary SD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	Good Writer
District:	**Kern HSD**	
	Publisher:	**Program:**
	National Geographic/Hampton Brown	EDGE
District:	**Lost Hills Union SD**	
	Publisher:	**Program:**
	Houghton Mifflin	Soar to Success
	National Geographic/Hampton Brown	Avenues
	Sopris West	Step Up to Writing

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District: **Panama-Buena Vista Union SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Rosedale Union SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Taft City SD**

Publisher:	Program:
Houghton Mifflin	Early Success
National Geographic/Hampton Brown	Avenues
SRA/McGraw-Hill	Photo Librarya

District: **Vineland Elementary**

Publisher:	Program:
National Geographic/Hampton Brown	Various

County: **Kings**

District: **Lemoore UESD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Reef-Sunset USD**

Publisher:	Program:
CTB/McGraw-Hill	Instructional Binders
LitConn	English Now A/B intervention

County: **Los Angeles**

District: **ABC USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues/EDGE
Teacher Created Materials	Various

District: **Academia Avance**

Publisher:	Program:
National Geographic/Hampton Brown	Packs

District: **Alhambra USD**

Publisher:	Program:
Harcourt Achieve	Various

Pearson Longman	Focus on Grammar

District: **Arcadia Unified**

Publisher:	**Program:**
Benchmark Education Company	Various
National Geographic/Hampton Brown	nothing noted
National Geographic/Hampton Brown	US History and Life Set
Pacific Learning	Pacemaker
Pearson Longman	Dictionary

District: **Avalon PAU/Compton**

Publisher:	**Program:**
Ballard & Tighe	Core Program

District: **Azusa USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various
Thomas Heinle	Visions

District: **Baldwin Park USD**

Publisher:	**Program:**
Harcourt School Publishing	Moving Into English
Thomas Learning	Visions

District: **Bassett SD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various
Pearson Longman	Focus on Grammar

District: **Bellflower USD**

Publisher:	**Program:**
Imagine Learning	Imagine Learning English

District: **Burbank USD**

Publisher:	**Program:**
Ballard & Tighe	Explore the Ancient World
Benchmark Education Company	Reader's Theater
National Geographic/Hampton Brown	Good Writer Kit
Pearson Longman	Social Studies/Science
Steck-Vaughn	History of Our World

District: **Charter Oak USD**

Publisher:	**Program:**

Harcourt School Publishers	Longman Dictionaries Ingles Baisco
Harcourt School Publishers	Writing Preparation and Practice
McGraw-Hill ESL/ELT	Grammar Form and Function
McGraw-Hill ESL/ELT	Read On
National Geographic/Hampton Brown	In Zone Books
Pearson Education	Focus on Grammar 3rd Ed
Peoples Publishing	Measuring Up
Peoples Publishing	nothing noted
Santillana USA Publishing	Dictionaries

District: **Claremont USD**

Publisher:	**Program:**
CTB/McGraw-Hill	Platinum Package
Harcourt School Publishing	English Language Resource Kits

District: **Compton USD**

Publisher:	**Program:**
Thomas Heinle	Series

District: **Covina-Vallery USD**

Publisher:	**Program:**
Harcourt School Publishers	Moving into English

District: **East Whittier CSD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Avenues Practice Books
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	Large Picture Cards
National Geographic/Hampton Brown	Nonfiction Reading and Writing Workshops
National Geographic/Hampton Brown	Theme Sets
National Geographic/Hampton Brown	Various

District: **El Monte City SD**

Publisher:	**Program:**
Harcourt School Publishers	Moving Into English
National Geographic/Hampton Brown	AB 1802 Packs

District: **El Rancho USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various

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District: **Gabriella Charter School**

Publisher:	Program:
Harcourt Achieve-Rigby	Series
Heinemann Raintree	Series

District: **Glendale USD**

Publisher:	Program:
Benchmark Eduction Company	Various
Cambridge University Press	Writer's at Work
Developmental Studies Center	Various
Great Source Education Group	Write (various programs)
National Geographic/Hampton Brown	Various
Oxford University Press	Dictionary
Pearson Longman	Side by Side
Peoples Publishing	Measuring Up
Saddleback Publishing	Walker High
Teacher Created Materials	Write Time for Kids

District: **Glendora USD**

Publisher:	Program:
Developmental Studies Center	Making Meaning

District: **Hacienda La Puente USD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Inglewood USD**

Publisher:	Program:
Perfection Learning Corp.	Review, Practice and Mastery of CA Standards ELA

District: **Lancaster SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Las Virgenes USD**

Publisher:	Program:
National Geographic/Hampton Brown	Various
Options Publishing	Strategies for Content Area Reading
Rosen Classroom	Science

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District: **LAUSD Charter School**

Publisher:	Program:
Great Source Education Group	Write (various programs)
National Geographic/Hampton Brown	Avenues
Peoples Education	Measuring Up

District: **Long Beach**

Publisher:	Program:
Benchmark Education Company	Various
National Geographic/Hampton Brown	Various
Pearson Longman	Focus on Grammar

District: **Los Angeles USD**

Publisher:	Program:
Frank Shaffer	nothing noted
Great Source Eduction Group	Write (various program)
Math Teacher's Press	Various
National Geographic/Hampton Brown	Various
Pearson Longman	Various
Realia Kits for Language Learning	Various
Thomas Heinle	Standout

District: **Los Nietos SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Lynnwood**

Publisher:	Program:
Imagine Learning	English
Miller Educational Materials	Various
National Geographic/Hampton Brown	Various
Pearson Education	Various

District: **Montebello USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

District: **Mountain View SD**

Publisher:	Program:
Pearson Longman	Dictionaries

District: **Newhall SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Norwalk-La Mirada USD**

Publisher:	Program:
Wright Group	X-Zone

District: **Oscar De La Hoya Animo**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE
Pearson Longman	Dictionaries

District: **Palmdale SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Palos Verdes Peninsula USD**

Publisher:	Program:
Bellwork Enterprises, Inc	Various
Pearson Learning Group	Read Naturally
Renaissance Learning	Accelerated Reader
SRA/McGRaw-Hill	Various
US International Publishing	Dictionaries
Zane-Bloser Educational Publishers	Leveled Books

District: **Paramount**

Publisher:	Program:
National Geographic/Hampton Brown	Language Series

District: **Pasadena USD**

Publisher:	Program:
McGraw-Hill ESL/ELT	Grammar Form and Function
Pearson Education	Writing Preparation and Practice
Santillana USA Publishing	Intensive English

District: **Pomona USD**

Publisher:	Program:
National Geographic/Hampton Brown	Series

District: **Rosemead SD**

Publisher:	Program:

McGraw-Hill/Wright Group	X-Zone
Pearson Learning Group	Carousel Readers Group

District: **Rowland USD**

Publisher:	**Program:**
Pearson Longman	Focus on Grammar

District: **San Marino USD**

Publisher:	**Program:**
Pacific Learning	New Heights

District: **Santa Monica-Malibu USD**

Publisher:	**Program:**
Ballard & Tighe	IDEAS
Great Source Education Group	New Generation Write Source
National Geographic/Hampton Brown	Various
Pearson Longman	Dictionaries

District: **Saugus Union**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various

District: **South Whittier**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various

District: **Temple City USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various
Peoples Education	Critical Reading
Peoples Education	Measuring Up

District: **West Covina USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Avenues

District: **Wilsona SD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various

County: **Los Angles**

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District: **Glendale USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

County: **Madera**

District: **Chowchilla SD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	English at Your Command

District: **Madera Co Oflfice of Education**

Publisher:	Program:
Great Source Education Group	Write Ahead

District: **Madera USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

County: **Mendocino**

District: **Fort Bragg USD**

Publisher:	Program:
Pearson Education	Word by Word
Teacher Created Materials	Reader's Theater
Teacher Created Materials	Reading in the Content Areas

District: **Ukiah Unified**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

County: **Merced**

District: **Gustine Unified**

Publisher:	Program:
National Geographic/Hampton Brown	ELD
Rigby-Steck-Vaugn	ELL Assessment Kit

District: **Hilmar USD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

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District: **Merced City Elementary SD**

Publisher:	Program:
National Geographic/Hampton Brown	Various

District: **Planada Elementary SD**

Publisher:	Program:
Red Brick Learning	Various

County: **Mono**

District: **Eastern Sierra USD**

Publisher:	Program:
Pacific Learning	Speak Out

County: **Monterey**

District: **Alisal USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
Pearson Longman	Side by Side

District: **Chualar Union Elementary**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Greenfield USD**

Publisher:	Program:
Ballard and Tight	Carousel of IDEAS

District: **Monterey Peninsula**

Publisher:	Program:
Imagine Learning	Imagine Learning English
Thomas Heinle	ACTIVE Skills for Reading

District: **Salinas City Elementary**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
Imagine Learning	Imagine Learning English
Pearson Longman	Dictionaries
Pearson Longman	Focus on Grammar
Santillana USA Publishing	Camp Can-Do

County: **Orange**

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District: **Anaheim Union HSD**

Publisher:	Program:
Scholastic	Reading Kits

District: **Capistrano USD**

Publisher:	Program:
Santillana USA Publishing	Spotlight Online

District: **Centralia SD**

Publisher:	Program:
Educators Publishing Service	Primary Phonics
Great Source Education Group	Doing History
Great Source Education Group	Write Traits
Rosen Classroom	Language Learning Success

District: **Cypress SD**

Publisher:	Program:
LitConn	English Now

District: **Fullerton Joint Unified HSD**

Publisher:	Program:
Great Source Education Group	nothing noted
Pearson Longman	n/a
Thomas Heinle	n/a

District: **Irvine USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
Pearson Longman	Longman Social Studies
Teacher Created Materials	Building Fluency Through Reader's Theater
Teacher Created Materials	Building Vocabulary from Word Roots
Teacher Created Materials	Exploring Writing

District: **La Habra City SD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
Ballard & Tighe	Creative IDEAS
Ballard & Tighe	Explore Social Studies Programs
Ballard & Tighe	Explore the Ages
Ballard & Tighe	Picture Dictionaries

District: **Magnolia SD**

Publisher:	Program:
Leapfrog School House	Read It All
Renaissance Learning	English in a Flash

District: **Orange USD**

Publisher:	Program:
By George! Publishing	More Speaking. . . . Listening
Options Publishing	Hit the Ground Running
Options Publishing	Strategies for Content Area Reading
Take a Stand Publishing	History Workbooks

District: **Placentia-Yorba Linda USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Santa Ana USD**

Publisher:	Program:
Pearson Longman ESL	Dictionary
Pearson Longman ESL	Essential Activator
Pearson Longman ESL	Word by Word
Pearsons AGS Globe	Economics
Pearsons AGS Globe	History of Our Nation 1865 to Present
Pearsons AGS Globe	Research Skills for Geography
Pearsons AGS Globe	US Government Revised
Pearsons AGS Globe	World History
Teacher Created Materials	Exploring Writing
Teacher Created Materials	Standards-Based Comprehension Strategies and Skill
Thomas Heinle	Visions

District: **Savanna Elementary SD**

Publisher:	Program:
Bellwork Enterprises, Inc	Daily Practice Program

County: **Placer**

District: **Auburn Union SD**

Publisher:	Program:
National Geographic/Hampton Brown	Language, Literacy and Vocabulary
Pearson Education	Dictionary of American English

AB 1802 Request to Review Summary Report

District: **Placer Union HSD**

Publisher:	Program:
Let's Go Learn	Unique Reader

District: **Rocklin USD**

Publisher:	Program:
Rigby Steck-Vaughn	Series

District: **Western Placer USD**

Publisher:	Program:
Pearson Longman	3-5 Grades

County: **Riverside**

District: **Banning USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	EDGE

District: **Coachella Valley USD**

Publisher:	Program:
Harcourt Achieve Steck Vaughn	Elements of Reading Vocabulary
Harcourt Achieve Steck Vaughn	Fluency Theater
McGraw-Hill ESL/ELT	New to English

District: **Corona-Norco USD**

Publisher:	Program:
McGraw-Hill ESL/ELT	On Location

District: **Desert Sands USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE
National Geographic/Hampton Brown	ELD Leveled Libraries for HS
Pearson Education	Focus on Grammar
Pearson Education	Land, People, Nations
Pearson Education	Social Studies

District: **Hemet USD**

Publisher:	Program:
LitConn	English Now

District: **Jurupa SD**

Publisher:	Program:
Harcourt Achive Steck Vaughn	Boldprint Complete
Harcourt Achive Steck Vaughn	Elements of Reading Vocabulary
Harcourt Achive Steck Vaughn	In-Step Readers

District: **Menifee USD**

Publisher:	Program:
Thomas Heinle	Reading Library

District: **Moreno Valley USD**

Publisher:	Program:
Follett Library Resources	Various
Houghton Mifflin	Writing Institute
Leapfrog School House	Language First
Lectura Books	nothing noted
National Geographic/Hampton Brown	Life Cycles
National Geographic/Hampton Brown	Various
Pearson Education	Dictionary
Pearson Longman	Dictionary
Penguin USA	WRITE Institute
Renaisance Learning	English in a Flash
Scholastic	Various
Steck-Vaughn	Boldprint Complete Middle School
Steps to Literacy	nothing noted

District: **Murrieta Valley USD**

Publisher:	Program:
Read Naturally, Inc	Read Naturally
Thomas Heinle	Grammar Connection

District: **Palm Springs USD**

Publisher:	Program:
Santillana USA Publishing	Benchmark Assessments

District: **Riverside USD**

Publisher:	Program:
Glencoe McGraw-Hill	Reading Nonfiction
National Geographic/Hampton Brown	Language, Literacy and Vocabulary
National Geographic/Hampton Brown	Reading Expeditions
Thomas Heinle	Reading Library

District: **Temecula Valley USD**

Publisher:	Program:
Leapfrog School House	Language First
National Geographic/Hampton Brown	EDGE

County: **Sacramento**

District: **Center Unified**

Publisher:	Program:
Pearson Education	Writing Preparation and Practice

District: **Del Paso Heights SD**

Publisher:	Program:
Options Publishing	Best Practices Classroom Library

District: **Folson Cordova USD**

Publisher:	Program:
Pearson Education	Dictionary
Pearson Education	Science
Pearson Education	Social Studies

District: **Grant Joint HSD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	Nonfiction Reading and Writing

District: **Language Academy of Sacramento**

Publisher:	Program:
Harcourt Achieve/Rigby and Steck-Vaughn	On Our Way to English

District: **Natomas Unified**

Publisher:	Program:
Pearson Digital Learning	Ellis Academic Suite
Pearson Longman	Dictionary of American English
Pearson Longman	Social Studies
Pearson Longman	Writing Preparation and Practice

District: **North Sacramento**

Publisher:	Program:
Steck-Vaughn	Elements of Reading Vocabulary

District: **Sacramento City USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE
National Geographic/Hampton Brown	Grammar Practice
National Geographic/Hampton Brown	Reading Expeditions LLV
National Geographic/Hampton Brown	Writing Workshop

District: **San Juan USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

County: **San Benito**

District: **North County Joint USD**

Publisher:	Program:
Options Publishing	Comprehensive Reading Intervention

County: **San Bernardino**

District: **Adelanto**

Publisher:	Program:
Curriculum Associates	Passwords

District: **Apple Valley USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

District: **Barstow**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	EDGE
National Geographic/Hampton Brown	ELD Leveled Libraries

District: **Colton Joint USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

District: **Etiwanda**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Fontana USD**

Publisher:	Program:

Pearson Longman	Focus on Grammar

District: **Realto USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Series

District: **Victor Elementary SD**

Publisher:	**Program:**
Santillana USA Publishing	Spotlight Online

District: **Victor Valley Union HSD**

Publisher:	**Program:**
Great Source Education Group	New Generation Write Source

County: San Diego

District: **Bonsall USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Ancient Civilizations
Pearson Learning Group	Group Math. Assessment and Diagnostic Evaluation
Santillana USA Publishing	Intensive English

District: **Cardiff Elementary SD**

Publisher:	**Program:**
Houghton Mifflin	Vocabulary Readers

District: **Carlsbad USD**

Publisher:	**Program:**
Ballard & Tighe	Explore Social Studies Program
First Choice Education Group	Academic Workout
National Geographic/Hampton Brown	EDGE

District: **Chula Vista Elementary SD**

Publisher:	**Program:**
Benchmark Education Company	Reader's Theater
By George! Publishing	Speaking. . . . Listening
Houghton Mifflin	Reading
Imagine Learning	English

District: **Eagles Peak Charter School**

Publisher:	**Program:**
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	ELD Leveled Libraries

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District: **Escondido USD**

Publisher:	Program:
San Diego COE	The WRITE Institute

District: **Grossmont Union HSD**

Publisher:	Program:
Thomas Heinle	Grammar in Context

District: **La Mesa-Sprint Valley SD**

Publisher:	Program:
National Geographic/Hampton Brown	Explorer Collection
National Geographic/Hampton Brown	Phonic Street
Steck-Vaughn	Elements of Reading Vocabulary
Thomas Heinle	Dictionary

District: **Lakeside USD**

Publisher:	Program:
Pearson Longman	Focus On Grammar

District: **National SC**

Publisher:	Program:
Harcourt Achieve Steck Vaughn	Elements of Reading Vocabulary
Harcourt Achieve Steck Vaughn	Fluency Theater

District: **Oceanside USD**

Publisher:	Program:
Pearson Longman	Content Specific Series
Pearson Longman	Writing Series

District: **Poway USD**

Publisher:	Program:
Great Source Education Group	Write Ahead
Houghton Mifflin	English
National Geographic/Hampton Brown	EDGE
National Geographic/Hampton Brown	Good Writer's Kit
National Geographic/Hampton Brown	Language, Literacy and Vocabulary
Oxford University Press	Dictionary for Content Areas
Pearson Longman	ESL
Pearson Longman	Mathematics
Pearson Longman	Science
Pearson Longman	Social Studies
Pearson Longman	Writing Preparaton and Practice

Thomas Heinle	English Language Learning

District: **San Diego Office of Ed**

Publisher:	**Program:**
Pearson Education	Advanced American Dictionary
San Diego COE	The WRITE Institute

District: **San Diego Unified**

Publisher:	**Program:**
Okapi Educational Materials	Explorations
Pearson Longman	English Language Learning
Rosen Classroom	Destination
Rosen Classroom	Journeys

District: **San Diego USD-Promise Charter**

Publisher:	**Program:**
Ballard & Tighe	Carousel of IDEAS

District: **San Ysidro SD**

Publisher:	**Program:**
Steck-Vaughn	Elements of Reading Vocabulary

District: **Santee Elementary SD**

Publisher:	**Program:**
Renaissance Learning	English in a Flash

District: **Sweetwater Union HSD**

Publisher:	**Program:**
National Geographic/Hampton Brown	EDGE
Thomas Heinle	Foundations Reading Library

District: **Vista USD**

Publisher:	**Program:**
Renaissance Learning	English in a Flash
San Diego COE	The WRITE Institute

County: **San Joaquin**

District: **Escalon USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Reading Expeditions
Pearson Longman	Dictionaries

District: **Lincoln USD**

Publisher:	Program:
National Geographic/Hampton Brown	Language, Literacy and Vocabulary

District: **New Hope Elementary SD**

Publisher:	Program:
CTB/McGraw-Hill	Instructional Guidance Binders/Benchmark Asmnt

County: San Luis Obispo

District: **Coast USD**

Publisher:	Program:
Read Naturally, Inc	ELL series

District: **Paso Robles Public Schools**

Publisher:	Program:
Great Source Education Group	Access Science
National Geographic/Hampton Brown	Various
Pearson Education	Dictionary of American English
Sopris West	Step Up to Writing

District: **Shandon Joint Unified**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues
Pearson Education	Advanced American Dictionary
Pearson Education	Dictionary of American English

County: San Mateo

District: **Cabrillo USD**

Publisher:	Program:
National Geographic/Hampton Brown	Reading Expeditions
Thomas Heinle	English Language Learning

District: **Ravenswood City School District**

Publisher:	Program:
New Leaf Education	Essential Word Glossaries

District: **Redwood City SD**

Publisher:	Program:
Benchmark Education Company	ELD Content Readers
Heinemann Raintree	Historical Biographies

Lerner Classroom	Leveled Readers
Pearson Learning Group	Social Studies
Red Brick Learning	ELD Content Reader
Rosen Classroom	ELD in Content Area
Santillana USA Publishing	Eng. Benchmark Assessments
Zaner-Bloser Educational Publishers	Explorer Biographies

District: **San Mateo Foster City**

Publisher:	**Program:**
Ballard & Tighe	Carousel of IDEAS

District: **San Mateo Union HSD**

Publisher:	**Program:**
Oxford University Press	Supplemental Reading and Writing
Pearson Longman	Supplemental Reading and Writing
Thomas Heinle	Supplemental Reading and Writing

District: **Sequoia Union HSD**

Publisher:	**Program:**
First Choice Education Group	Academic Workout
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	The Good Writer's Kit
New Leaf Education	Academic Vocabulary
Pearson Longman	Various
Thomas Henile	Various

County: **Santa Barbara**

District: **Buellton USD**

Publisher:	**Program:**
Pearson Longman	Get Ready to Write

District: **Guadalupe Union SD**

Publisher:	**Program:**
Renaissance Learning	English in a Flash
Sopris West	Step Up to Writing

County: **Santa Clara**

District: **Almaden County School**

Publisher:	**Program:**
CTB/McGraw-Hill	Instructional Guidance Binders/Benchmark Asmnt

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District: **Alum Rock Union Elementary SC**

Publisher:	Program:
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	Theme Sets

District: **Berryessa USD**

Publisher:	Program:
Benchmark Education Company	Benchmark Education
Santillana USA Publishing	Classroom Library

District: **Campbell Union HSD**

Publisher:	Program:
Imagine Learning	English
Thomas Heinle	Visions

District: **Evergreen**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Franklin McKinley SD**

Publisher:	Program:
First Choice Education Group	Academic Workout
Great Source Education Group	Access
Imagine Learning	Imagine Learning English
National Geographic/Hampton Brown	Reading Expectation
National Geographic/Hampton Brown	Various
New Leaf Education	Academic Vocabulary
New Leaf Education	Building Academic Voabulary

District: **Fremont Union HSD**

Publisher:	Program:
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	Various
National Geographic/Hampton Brown	Visual Vocabulary Kits
New Leaf Education	Academic Vocabulary

District: **Leadership Public Schools - San Jose**

Publisher:	Program:
Oxford University Press	Effective Academic Writing
Oxford University Press	Lecture Ready
Oxford University Press	Panorama
Oxford University Press	Read and Reflect

Oxford University Press	Reason to Write
Pearson Longman	Focus on Grammar 4
Pearson Longman	Focus on Grammar 1
Pearson Longman	Focus on Grammar 2
Pearson Longman	Focus on Grammar 3
Pearson Longman	Focus on Grammar 5

District: **Leadership Public Schools-Campbell**

Publisher:	**Program:**
Oxford University Press	Effective Academic Writing
Oxford University Press	Lecture Ready
Oxford University Press	Panorama
Oxford University Press	Read and Reflect
Oxford University Press	Reason to Write
Pearson Longman	Focus on Grammar

District: **Milpitas USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Various
New Leaf Education	Academic Vocabulary

District: **Morgan Hill USD**

Publisher:	**Program:**
Leapfrog Schoolhouse	Eng. Language Development
National Geographic/Hampton Brown	Various
New Leaf Education	Academic Vocabulary
Santillana USA Publishing	Camp Can-Do
Santillana USA Publishing	Stories to Celebrate

District: **Mountain View Whisman**

Publisher:	**Program:**
Bechmark Education Company	Explorers-Science
Bechmark Education Company	Explorers-Social Studies
Bechmark Education Company	Reader's Theater
Heinemann Raintree	Great Teams
Heinemann Raintree	On Frontline
Heinemann Raintree	Voices of Freedom
Okapi Educational Materials	Explorations

District: **MVLAUHSD**

Publisher:	**Program:**
New Leaf Education	Essential Word Glossaries

District: **Oak Grove SD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **San Jose USD**

Publisher:	Program:
National Geographic/Hampton Brown	Reading Expeditions

District: **Saratoga Union Elementary**

Publisher:	Program:
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	The Good Writer's Kit

District: **Sunnyvale Elementary SD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

County: **Santa Cruz**

District: **Enterprise Elementary SD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Pajaro Valley USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
Pearson Education	Writing Preparation and Practice

District: **Santa Cruz City Schools**

Publisher:	Program:
National Geographic/Hampton Brown	Content Literacy Theme Sets
New Leaf Education	Academic Vocabulary
Rosen Classroom	Graphic Nonfiction

County: **Solano**

District: **Travis**

Publisher:	Program:
Thomas Heinle	Step by Step Writing

District: **Vacaville USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

New Leaf Education	Academic Vocabulary
Thomas Heinle	Voices in Literature

District: **Vallejo USD**

Publisher:	**Program:**
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	Language, Literacy and Vocabulary
Pearson Education	Dictionary of American English
Pearson Education	Focus on Grammar
Pearson Education	Science
Pearson Education	Social Studies

County: **Sonoma**

District: **Cloverdale**

Publisher:	**Program:**
National Geographic/Hampton Brown	Windows on Literacy

District: **Cotati-Rahnert Park USD**

Publisher:	**Program:**
Ballard & Tighe	Picture Dictionaries
Leapfrog School House	Picture Dict. For Spanish Speakers
National Geographic/Hampton Brown	Reading Expeditions
National Geographic/Hampton Brown	Windows on Literacy
Thomas Heinle	Reading and Vocabulary Development Series

District: **Geyersville USD**

Publisher:	**Program:**
Pearson Educaton	Science

District: **Healdsburg USD**

Publisher:	**Program:**
Benchmark Education Company	Reader's Theater
Harcourt Achieve Rigby Steck Vaughn	On Our Way to English
Rourke Classroom	ELL/ESL Photo Card Collection

District: **Mark West USD**

Publisher:	**Program:**
Ballard & Tighe	Carousel of IDEAS

District: **Oak Grove Union**

Publisher:	**Program:**
Teacher Created Materials	Exploring Writing

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District: **Old Adobe USD**

Publisher:	Program:
National Geographic/Hampton Brown	Avenues

District: **Petaluma City Elementary**

Publisher:	Program:
Harcourt Achieve	Rigby Coleccion Basicos
National Geographic/Hampton Brown	Avenues
Oxford University Press	Let's Go Interactive
Pearson Longman	Dictionaries

District: **Petaluma Joint Union HS**

Publisher:	Program:
Glencoe McGraw-Hill	Jamestown
Glencoe McGraw-Hill	Jamestown Signature
Oxford University Press	Dictionary
Pearson Longman	Dictionary
Pearson Longman	Focus on Grammar
Pearson Longman	Focus on Vocabulary
Pearson Longman	Picture This
Pearson Longman	True Stories Series
Thomas Heinle	Various

District: **Roseland Elementary**

Publisher:	Program:
National Geographic/Hampton Brown	Language, Literacy and Vocabulary
National Geographic/Hampton Brown	Reading Expeditions
Pearson Longman	Dictionary of American English

District: **Sonoma Valley USD**

Publisher:	Program:
Teacher Created Materials	Exploring Nonfiction

District: **Two Rock USD**

Publisher:	Program:
National Geographic/Hampton Brown	Windows on Literacy

District: **West Sonoma County Union HSD**

Publisher:	Program:
Heinemann Raintree	History

District: **Windsor Unified**

Publisher:	Program:
Leapfrog School House	Language First
National Geographic/Hampton Brown	Nonfiction Reading and Writing
National Geographic/Hampton Brown	Windows in Literature
Options Publishing	Just Right
Options Publishing	Writers Thesaurus

District: **Wright Elementary**

Publisher:	Program:
Benchmark Education Company	Reader's Theater
National Geographic/Hampton Brown	Picture Cards
Options Publishing	Comprehensive Science Assessment
Pearson Longman	Quick Reads
Santillana USA Publishing	Intensive English

County: **Stanislaus**

District: **Denair USD**

Publisher:	Program:
Pearson Longman	Dictionaries

District: **Hughson USD**

Publisher:	Program:
Pearson Longman	Mathematics
Pearson Longman	Science
Pearson Longman	Social Studies

District: **Keyes Union Elementary**

Publisher:	Program:
National Geographic/Hampton Brown	Grammar Practice Books
National Geographic/Hampton Brown	Reading Expeditions
National Geographic/Hampton Brown	Windows on Literacy

District: **Newman-Crows Landing USD**

Publisher:	Program:
Curriculum Associates	Passwords
Rigby Steck-Vaughn	Rigby ELL Assessment Kit
Thomas Heinle	Gateway Science

District: **Patterson Joint USD**

Publisher:	Program:

	Scholastic	nothing noted

District: **Sylvan Union**

Publisher:	Program:
Curriculum Associates	Quickword
National Geographic/Hampton Brown	ELD
Options Publishing	Connecting Vocabulary
Options Publishing	Hit the Ground Running
Options Publishing	Speedy Spelling
Options Publishing	Writer's Thesaurus

District: **Turlock USD**

Publisher:	Program:
McGraw Hill ESL/ELT	New to English
McGraw Hill ESL/ELT	On Location
Pearson Longman	Dictionary of American English
Write Institute	WRITE

County: **Sutter**

District: **Yuba City USD**

Publisher:	Program:
Holt, Rinehart and Winston	Adapted Reader
Houghton Mifflin	Leveled Readers
Houghton Mifflin	Soar to Success
Options Publishing	Math Tools
Pearson Longman	Dictionary of American English

County: **Tehama**

District: **Antelope Elementary SD**

Publisher:	Program:
Houghton Mifflin	Soar to Success

County: **Tulare**

District: **Alpaugh USD**

Publisher:	Program:
National Geographic/Hampton Brown	EDGE

District: **Burton Elementary SD**

Publisher:	Program:
Curriculum Associates	WRITE

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District: **Dinuba USD**

Publisher:	Program:
National Geographic/Hampton Brown	Grammar Books

District: **Exeter USD**

Publisher:	Program:
Thomas Heinle	Visions

District: **Lindsay USD**

Publisher:	Program:
Leapfrog School House	Language First

District: **Porterville USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

District: **Visalia USD**

Publisher:	Program:
Houghton Mifflin	Leveled Readers

County: **Ventura**

District: **Fillmore USD**

Publisher:	Program:
National Geographic/Hampton Brown	Various
Pearson Education	Science
Pearson Education	Social Studies

District: **Hueneme SD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS
National Geographic/Hampton Brown	Various
Santillana USA Publishing	Intensive English
Santillana USA Publishing	Stories to Celebrate

District: **Moorpark USD**

Publisher:	Program:
Sopris West	Step Up to Writing

District: **Ocean View**

Publisher:	Program:
Houghton Mifflin	Vocabulary Readers

AB 1802 Request to Review Summary Report

District: **Somis USD**

Publisher:	Program:
National Geographic/Hampton Brown	English at Your Command

County: **Yolo**

District: **Davis Joint USD**

Publisher:	Program:
Ballard & Tighe	Creative IDEAS
Benchmark Education Company	English Explorers
Heinemann Raintree	Nonfiction Classroom Collection
National Geographic/Hampton Brown	Explorer Book Collection
Pearson Longman	Dictionary of American English
Pearson Longman	Focus on Grammar

District: **Winters Joint USD**

Publisher:	Program:
First Choice Education Group	Academic Workout
Pacific Learning	Speak Out

District: **Woodland**

Publisher:	Program:
First Choice Education Group	Academic Workout
National Geographic/Hampton Brown	Avenues
National Geographic/Hampton Brown	EDGE
National Geographic/Hampton Brown	ELD Leveled Libraries
National Geographic/Hampton Brown	Reading Expeditions
National Geographic/Hampton Brown	The Good Writer's Kit
New Leaf Education	Essential Word Glossaries

County: **Yuba**

District: **Marysville Joint USD**

Publisher:	Program:
Ballard & Tighe	Carousel of IDEAS

ITEM #31

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
High Priority Schools Grant Program: Approve Revised Application and Action Plan for One Cohort 2 School	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the revised school application and action plan for one Cohort 2 High Priority Schools Grant Program (HPSGP) school.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In March 2007, the SBE approved 408 school applications for participation in Cohort 2 of the HPSGP. In May 2007, the SBE approved an additional 28 schools.

SUMMARY OF KEY ISSUES

The goal of the HPSGP is to assist the lowest performing schools in the state in raising student achievement by offering schools additional resources targeted to improve student performance.

The Budget Act of 2005 authorized funding for a second cohort of schools to participate in the HPSGP. Assembly Bill 2254 (Chapter 766, Statutes of 2006) revised legislative timelines for implementation of Cohort 2 of the HPSGP, including timelines for submission and approval of school applications. Schools in decile ranks one and two were invited to participate in the second cohort based on priorities and eligibility requirements for participation established in law, and were provided with $50,000 to plan school improvement activities and prepare applications for HPSGP implementation funding.

The school applications that were previously recommended for SBE approval met the necessary criteria for funding. Schools whose applications were found to be incomplete or that did not meet the requirements were provided with the opportunity to review, reconvene their teams, and modify specific portions of their School Action Plan, then

SUMMARY OF KEY ISSUES (Cont.)

resubmit their plans. The CDE staff provided technical assistance to districts and schools whose school applications were found to be incomplete or that did not meet the program requirements. The majority of revised applications were approved by the SBE at the May meeting, with only one outstanding application. Subsequently, the revised application was reviewed by the CDE staff to ensure it met all application requirements. The CDE now recommends this revised application for Vantage Point Charter School in Ready Springs Union Elementary School District to the SBE for approval.

FISCAL ANALYSIS (AS APPROPRIATE)

The Legislature appropriated $201 million in Fiscal Year 2006-07 for this program, with an ongoing commitment to fund schools for full program implementation. Based upon budget projections in the May Revise there will be sufficient funds in the line item to fund the school considered at the July 2007 SBE meeting.

ATTACHMENT(S)

Attachment 1: Cohort 2 High Priority Schools Grant Program: School Recommended for Funding (1 Page)

ITEM #~~#~~32

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
No Child Left Behind Act of 2001: Approve Local Educational Agency Plans, Title 1, Section 1112	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the Local Educational Agency (LEA) Plans.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

As of the May 2007 meeting, the SBE has approved a total of 1,324 LEA Plans.

SUMMARY OF KEY ISSUES

The purpose of the LEA Plan is to develop an integrated, coordinated plan that describes educational services for all students and can be used to guide program implementation and resource allocation. LEA Plans from direct-funded charter schools will be recommended for full approval. This approval allows the schools to access federal and state categorical funding.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to state operations.

ATTACHMENT(S)

Attachment 1: Local Educational Agency Plans from Direct-Funded Charter Schools Recommended for Full State Board of Education Approval, July 2007 (1 Page)

An Item Addendum may be provided with a list of additional direct-funded charter schools with LEA Plans recommended for full SBE approval.

Local Educational Agency Plans from Direct-Funded Charter Schools
Recommended for Full State Board of Education Approval
July 2007

CoDistCode	SchCode	Direct-Funded Charter School
2165474	6118491	Willow Creek Academy

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 9, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William L. Padia, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 32

SUBJECT: No Child Left Behind Act of 2001: Approve Local Educational Agency Plans, Title 1, Section 1112

Listed below for State Board of Education (SBE) approval are 11 local educational agency (LEA) plans. The LEA plans are required under the No Child Left Behind (NCLB) Act of 2001 so that LEAs may receive federal categorical funding for educational programs.

With the SBE's approval of these plans, a total of 1,336 LEAs will have fully approved plans.

The following LEAs need approval:

CoDistCode	SchCode	Direct-Funded Charter School
1663875	0112698	California Virtual Academy @ Kings
1964352	0101642	Media Arts Academy at Centinela
1964733	0100743	Accelerated Charter Elementary School
1964733	0100750	Wallis Annenberg Senior High School
1964733	0112334	Garr Academy of Mathematics and Entrepreneurial Studies
1964733	6112536	The Accelerated School
1965094	0112706	California Virtual Academy @ Los Angeles
3868478	0107300	City Arts and Technology High School
4168916	0112284	California Virtual Academy @ San Mateo
5171423	0111161	California Virtual Academy @ Sutter
5672553	0111690	University Charter Middle School at CSU Channel Islands

ITEM ~~#~~ ~~#~~ 33

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CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Consolidated Applications 2006-07: Approval	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) fully approve the 2006-07 Consolidated Applications (ConApps) submitted by certain local educational agencies (LEAs).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

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 ~~CDE's recommendation for~~ funding, the LEA must have submitted an LEA Plan that satisfied the SBE's and CDE's criteria for utilizing federal and state categorical funding. To date, the SBE has approved ConApps for 1,329 LEAs for 2006-07. The majority of ConApps are presented for approval by the SBE in the Fall, soon after the ConApp submission deadline. However,there is no statutory deadline. Therefore, any ConApps submitted prior to the end of the fiscal year are accepted and submitted for approval. ~~…(please say something about why ConApps are being presented to the SBE at the end of the year for which they're seeking funding).~~

Approximately $3.2 billion of state and federal funding is distributed annually through the ConApp process. There are 13 state and federal programs that LEAs may apply for in the ConApp. The state funding sources include: Cal-SAFE; Economic Impact Aid (which is used for State Compensatory Education and/or English learners); Peer Assistance and Review; School Safety and Violence Prevention; and Tobacco Use Prevention Education. The federal funding sources include Title I, Part A Basic Grant (Low Income); Title I, Part A (Neglected); Title I, Part D (Delinquent); Title II, Part A (Teacher Quality); Title III, Part A (Limited English Proficient (LEP) Students); Title IV, Part A (Safe and Drug-Free Schools and Communities); Title V, Part A (Innovative); and Title VI, Part B (Rural, Low-Income).

The CDE provides the SBE with two types of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, and has no serious noncompliant issues over 365 days. Conditional approval is

recommended when an LEA has submitted a correct and complete ConApp, Part I, but has one or more serious noncompliant issues over 365 days. Conditional approval provides authority to the LEA to spend its categorical funds under the condition that it resolves or makes significant progress toward resolving noncompliant issues. In extreme cases, conditional approval may include the withholding of funds. There are no LEAs recommended for conditional approval at this time.

SUMMARY OF PREVIOUS . . . (Cont.)

The attachment includes ConApp entitlement figures from school year 2005-06. If fiscal data are absent, it indicates that the LEA is new or is applying for direct funding for the first time.

SUMMARY OF KEY ISSUES

The CDE recommends regular approval of the ConApp for ~~five~~ nine LEAs (see Attachment 1 for the list of LEAs).

FISCAL ANALYSIS (AS APPROPRIATE)

There is minimal CDE cost to track the SBE approval status of the ConApp for approximately 1,300 LEAs.

ATTACHMENT(S)

Attachment 1: ConApp List (2006-07) Regular Approvals (1 Page)

Recommended for Regular Approval

The following LEAs have submitted a correct and complete ConApp, Part I, and have no compliance issues crucial to student achievement outstanding for more than 365 days. The Department recommends regular approval of these applications.

CD Code	School Code	Local Educational Agency Name	2005-06 ConApp Entitlement	2005-06 Entitlement Per Student	2005-06 Title I Entitlement
1663875	0112698	California Virtual Academy @ Kings	0	0.00	0
1965094	0112706	California Virtual Academy @ Los Angeles	0	0.00	0
1964733	1996594	Discovery Charter	193,533	562.60	179,902
1964733	0112334	GARR Academy of Mathematics & Entrepreneurial	0	0.00	~~0~~
0761796	6118368	Manzanita Middle	0	0.00	0
4410447	4430252	Pacific Collegiate Charter	4,995	0.00	0
3675044	0112441	Pathways to College	0	0.00	0
5210520	5230073	Sacramento River Discovery Charter	3,129	27.21	0
5071043	0112292	Summit Charter Academy	0	0.00	0

~~5~~ 9 Total Number of LEAs in the report
$201,657 Total ConApp entitlement for districts receiving regular approval

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State of California **Department of Education**

ITEM ADDENDUM

DATE: July 2, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William Padia, Deputy Superintendent
Assessment and Accountability Branch

RE: Item No. 33

SUBJECT: Consolidated Applications 2006-07: Approval

This item replaces the previously submitted recommendation to approve the Consolidated Applications (ConApps), because two more Charter Schools have submitted their completed ConApps. The schools that have been added to the list are North Oakland Community Charter and Willits Charter. This brings the total to 11. No more 2006-07 ConApps will be accepted.

Recommended for Regular Approval

The following LEAs have submitted a correct and complete ConApp, Part I, and have no compliance issues crucial to student achievement outstanding for more than 365 days. The Department recommends regular approval of these applications.

CD Code	School Code	Local Educational Agency Name	2005-06 ConApp Entitlement	2005-06 Entitlement Per Student	2005-06 Title I Entitlement
1663875	0112698	California Virtual Academy @ Kings	0	0.00	0
1965094	0112706	California Virtual Academy @ Los Angeles	0	0.00	0
1964733	1996594	Discovery Charter	193,533	562.60	179,902
1964733	0112334	GARR Academy of Mathematics & Entrepreneurial	0	0.00	0
0761796	6118368	Manzanita Middle	0	0.00	0
0161259	6117972	North Oakland Community Charter	0	0.00	0
4410447	4430252	Pacific Collegiate Charter	4,995	0.00	0
3675044	0112441	Pathways to College	0	0.00	0
5210520	5230073	Sacramento River Discovery Charter	3,129	27.21	0
5071043	0112292	Summit Charter Academy	0	0.00	0
2365623	2330363	Willits Charter	0	0.00	0

11 Total Number of LEAs in the report
$201,657 Total ConApp entitlement for districts receiving regular approval

ITEM #34

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Mathematics and Reading Professional Development Program, Senate Bill 472 (Chapter 524, Statutes of 2006): Approval of Training Providers and Training Curricula	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the providers and training curricula listed on Attachment 1 for the professional development under the provisions of the Mathematics and Reading Professional Development Program, Senate Bill (SB) 472 (Chapter 524, Statutes of 2006): Approval of Training Providers and Training Curricula 472 (Chapter 524, Statutes of 2006).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the November 2006 meeting, the SBE approved criteria for the approval of training providers and training curricula. This is the approval of new SB 472 training providers and training curricula.

SUMMARY OF KEY ISSUES

SB 472 reauthorized the Mathematics and Reading Professional Development Program, which provides incentive funding to districts to train teachers, instructional aides, and paraprofessionals in mathematics and reading. Once the providers and their training curricula are determined to have satisfied the SBE-approved criteria and have been approved by the SBE, local educational agencies (LEA)s may contact the approved providers for SB 472 professional development.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of additional SB 472 providers allows more choices for LEAs in selecting training providers, for which $31.7 million was allocated for fiscal year 2006-2007. Approval of additional providers does not affect the total dollars available.

ATTACHMENT(S)

Attachment 1: Providers and Training Curricula Recommended for Board Approval (1 page)

Providers and Training Curricula Recommended for Board Approval

Mathematics and Reading Professional Development Program Senate Bill 472 review panel recommends approval of the following providers and training curricula:

Provider:	Panama-Buena Vista Union School District
Curriculum:	Houghton Mifflin, Houghton Mifflin Reading: A Legacy of Literacy
Grade Levels:	Kindergarten, One, Three - six

Provider:	San Bernadino County Superintendent of Schools
Curriculum:	Prentice Hall, Literature:Timeless Voices, Timeless Themes
Grade Levels:	Six-eight and Nine-twelve

Provider:	University of California Professional Development Institute
Curriculum:	Prentice Hall, Literature: Timeless Voices, Timeless Themes
Grade Levels:	Seven - nine

Provider:	University of California Professional Development Institute
Curriculum:	Holt, Rinehart and Winston: Literature and Language Arts
Grade Levels:	Seven - nine

ITEM #35

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Mathematics and Reading Professional Development Program, Senate Bill 472 (Chapter 524, Statutes of 2006): Approve Reimbursement Requests and Applications from Local Educational Agencies.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve reimbursement requests and applications for local educational agencies (LEAs) that have complied with required assurances for the Mathematics and Reading Professional Development Program, Senate Bill (SB) 472 (Chapter 524, Statutes of 2006), previously known as Assemby Bill (AB) 466.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California *Education Code* (*EC*) Section 99234(f) stipulates that funding may not be provided to an LEA until the SBE approves the agency's certified assurances. During 2002-03, the SBE approved program applications **prior to** a participating LEA commencing training. This process caused a time delay before an LEA could begin training. To avoid this delay in 2003-04 and subsequent years, it was agreed that LEA compliance with required assurances would be approved by the SBE when LEAs submit a Request for Reimbursement Form, which occurs after training is completed. At the July 2004, July 2005, and July 2006 meetings of the SBE, the CDE also submitted, and the SBE approved, a list of LEAs that had filed an application but had not yet submitted a Request for Reimbursement form. This action enabled the CDE to reimburse LEAs for teachers attending training in late June.

SUMMARY OF KEY ISSUES

As a condition of the receipt of funds, *EC* Section 99237(a) requires that an LEA submit to the SBE a statement of assurance certified by the appropriate agency official and approved in a public session by the governing body of the agency. LEAs participating in the Mathematics and Reading Professional Development program provide this proof of compliance with assurances by submitting a signed application. LEAs submitting a Request for Reimbursement Form additionally provide summary information regarding credentials held by each teacher who has successfully completed training.

SUMMARY OF KEY ISSUES (Cont.)

The specific amount for each LEA is determined by the number of teachers trained as specified on their submitted Request for Reimbursement Form. CDE staff review the requests for reimbursement to ensure reported data conforms to the laws and regulations governing the program.

FISCAL ANALYSIS (AS APPROPRIATE)

The Legislature appropriated $31.7 million (General Fund) for the operation of the program pursuant to *EC* Section 99237 in fiscal years 2006-07 and 2005-06. The CDE has received $8,755,000 in 2006-07 claims and has issued $4,635,000 in payments for those claims. To date, the CDE has received $41,657,500 in 2005-06 claims and has issued $31,727,500 in 2005-06 funding and $6,426,250 in 2006-07 funding. In accordance with *EC* Section 99234(e), the shortfall in 2005-06 will be paid from the appropriation for 2006-07.

ATTACHMENT(S)

Attachment 1: List of LEAs submitting certification of assurance for AB 466 via a signed **Request for Reimbursement Form**: Fiscal Years Prior to 2006-07 (July 2007) (1 Page)

Attachment 2: List of LEAs submitting certification of assurance for AB 466 via a signed **Request for Reimbursement Form**: Fiscal Year 2006-07 (July 2007) (4 Pages)

Attachment 3: List of LEAs submitting certification of assurance for SB 472 via a signed **Request for Reimbursement Form**: Fiscal Year 2006-07 (July 2007) (1 Page)

Attachment 4: List of LEAs submitting certification of assurance for AB 466 via a signed **Application Form:** Fiscal Year 2006-07 (July 2007) (2 Pages)

Attachment 5: List of LEAs submitting certification of assurance for SB 472 via a signed **Application Form:** Fiscal Year 2006-07 (July 2007) (1 Page)

AB 466
List of LEAs submitting certification of assurance via a signed **Request for Reimbursement Form**:
Fiscal Years Prior to 2006-07 (July 2007)

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Colusa	Maxwell Unified	3				RIC, Sacramento COE	Houghton Mifflin, *A Legacy of Literacy*
Contra Costa	Pittsburg Unified	5				Sacramento COE	SRA/McGraw-Hill, *REACH*
Los Angeles	Hawthorne Elementary	16	16			CORE	Prentice Hall, *Timeless Voices, Timeless Themes*
Los Angeles	Pasadena Unified		43			RIC, Sacramento COE	SRA/McGraw-Hill, *Open Court 2002*
Merced	Livingston Union		28			District	Houghton Mifflin, *A Legacy of Literacy*
Shasta	Fall River Joint Unified	3				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Sonoma	Gravenstein Union	4				RIC, Sacramento COE	SRA/McGraw-Hill, *Open Court 2002*
TOTAL		**31**	**87**	**0**	**0**		

AB 466
List of LEAs submitting certification of assurance via a signed **Request for Reimbursement Form**:
Fiscal Year 2006-07 (July 2007)

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Alameda	Alameda County Office of Education	45				RIC, Alameda COE	Houghton Mifflin, *A Legacy of Literacy*
Colusa	Maxwell Unified	4				RIC, Sacramento COE	Houghton Mifflin, *A Legacy of Literacy*
Contra Costa	Brentwood Union Elementary	153				RIC, San Joaquin COE	SRA/McGraw-Hill, *Open Court 2002*
Contra Costa	Lafayette Elementary	4				RIC, Alameda COE	Houghton Mifflin, *A Legacy of Literacy*
Fresno	Clay Joint Elementary	2				RIC, San Joaquin COE	Houghton Mifflin, *A Legacy of Literacy*
Glenn	Lake Elementary	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Kern	Elk Hills Elementary	2				RIC, San Joaquin COE	Houghton Mifflin, *A Legacy of Literacy*
Kings	Armona Union Elementary			3		RIC, Sacramento COE	Houghton Mifflin, *Mathematics*
Lake	Kelseyville Unified		3			District	Houghton Mifflin, *A Legacy of Literacy*
Los Angeles	Covina-Valley Unified	2				Calabash	Houghton Mifflin, *A Legacy of Literacy*

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Los Angeles	Monrovia Unified	16				Sopris West	Sopris West, *LANGUAGE!*
Los Angeles	Wilsona Elementary			22		Los Angeles COE	Saxon Publishers, *Saxon Math*
Madera	Alview-Dairyland Union Elementary	3				RIC, San Joaquin COE	Houghton Mifflin, *A Legacy of Literacy*
Madera	Chowchilla Elementary			32		Stanislaus COE	McDougal Littell, *Concepts and Skills, Course 2*
Mendocino	Laytonville Unified	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Merced	Dos Palos Oro Loma Joint Unified		10			District	Houghton Mifflin, *A Legacy of Literacy*
Merced	Merced City Elementary			38		Fresno COE	Harcourt School Publishers, *Harcourt Math*
Merced	Weaver Union	4				Sacramento COE	Hampton Brown, *High Point*
Modoc	Surprise Valley Joint Unified			2		Sacramento COE	McDougal Littell, *Concepts and Skills, Course 2*
Monterey	King City Union Elementary	2				Center for Applied Research	SRA/McGraw-Hill, *REACH*
Monterey	Monterey COE			19		Monterey COE	Harcourt School Publishers, *Harcourt Math*
Riverside	Menifee Union			5		Sacramento COE	Harcourt School Publishers, *Harcourt Math*

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Sacramento	Robla Elementary	10				RIC, Sacramento COE	SRA/McGraw-Hill, *Open Court 2002*
Sacramento	Sacramento City Unified	4				Action Learning Systems	Holt, Rinehart, and Winston, *Literature and Language Arts*
San Benito	Hollister	28				RIC, Alameda COE	Houghton Mifflin, *A Legacy of Literacy*
San Diego	Alpine Union Elementary	3				RIC, Sacramento COE	Houghton Mifflin, *A Legacy of Literacy*
San Diego	Escondido Union Elementary	12				RIC, San Diego COE	Houghton Mifflin, *A Legacy of Literacy*
San Diego	Vista Unified School District	34				Sacramento COE	Hampton Brown, *High Point*
San Francisco	Lincoln Unified	7				RIC, Sacramento COE	SRA/McGraw-Hill, *Open Court 2002*
San Francisco	San Francisco Unified	20				Sacramento COE	Prentice Hall, *Timeless Voices, Timeless Themes*
San Joaquin	Lincoln Unified	7				RIC, Sacramento COE	SRA/McGraw-Hill, *Open Court 2002*
Shasta	Cottonwood Union Elementary			3		Sacramento COE	McDougal Littell, *Concepts and Skills, Course 2*

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Shasta	Fall River Joint Unified	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Shasta	Pacheco Union Elementary	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Solano	Dixon Unified	25				RIC, Sacramento COE	Houghton Mifflin, *A Legacy of Literacy*
Sonoma	Gravenstein Union Elementary	2				RIC, Butte COE	SRA/McGraw-Hill, *Open Court 2002*
Sonoma	Healdsburg Unified	2				San Diego COE	SRA/McGraw-Hill, *Foro Abierto*
Stanislaus	Modesto City High	8				Sacramento COE	Holt, Rinehart, and Winston, *Literature and Language Arts*
Sutter	Marcum-Illinois Union Elementary		2			District	Houghton Mifflin, *A Legacy of Literacy*
Trinity	Douglas City Elementary	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
Trinity	Weaverville Elementary	1				RIC, Butte COE	Houghton Mifflin, *A Legacy of Literacy*
TOTAL		**405**	**15**	**124**	**0**		

SB 472
List of LEAs submitting certification of assurance via a signed **Request for Reimbursement Form:**
Fiscal Year 2006-07 (July 2007)

COUNTY	LEA NAME	NUMBER OF TEACHERS				PROVIDER	MATERIALS
		Reading 40 Hours	Reading 80 Hours	Mathematics 40 Hours	Mathematics 80 Hours		
Santa Clara	Santa Clara County Office of Education			30		Fresno COE	Harcourt School Publishers, *Harcourt Math*
Shasta	Enterprise Elementary		8			District	Houghton Mifflin, *A Legacy of Literacy*
TOTAL		**0**	**8**	**30**	**0**		

AB 466 Application Form
Fiscal Year 2006-07 (July 2007)

The following local educational agencies have submitted certification of assurance via a signed Application:

COUNTY	NAME OF LEA
Alameda	Castro Valley Unified
Alameda	Hayward Unified
Alameda	Livermore Valley Joint Unified
Alameda	New Haven Unified
Alameda	San Lorenzo Unified
Butte	Butte County Office of Education
Contra Costa	Antioch Unified
Contra Costa	Pittsburg Unified
Fresno	Coalinga-Huron Joint Unified
Fresno	Firebaugh-Las Deltas Joint Unified
Kern	Arvin Union Elementary
Kern	Bakersfield City
Kern	Kern Union High
Kern	Lamont Elementary
Kern	Richland Union Elementary
Lassen	Fort Sage Unified
Los Angeles	Charter Oak Unified
Los Angeles	Hawthorne
Los Angeles	Pasadena Unified
Los Angeles	Pomona Unified
Los Angeles	Rowland Unified
Los Angeles	South Pasadena Unified
San Joaquin	Linden Unified
San Mateo	Sequoia Union High
Santa Clara	Franklin-McKinley Elementary

COUNTY	NAME OF LEA
Los Angeles	Sulphur Springs Union Elementary
Madera	Chowchilla Union High
Marin	Lincoln Elementary
Mendocino	Ukiah Unified
Merced	Livingston Union Elementary
Monterey	Salinas Union High
Orange	Anaheim Union High
Orange	Placentia-Yorba Linda Unified
Placer	Roseville City Elementary
Riverside	Palo Verde Unified
Riverside	Perris Elementary
Riverside	Perris Union High
Riverside	Riverside County Office of Education
Riverside	Romoland Elementary
San Bernardino	Chino Valley Unified
San Bernardino	Redlands Unified
San Diego	Dehesa Elementary
San Diego	Lemon Grove Elementary
San Diego	National Elementary
San Diego	San Diego County Office of Education
San Diego	San Diego Unified School District
San Diego	South Bay Union Elementary

COUNTY	NAME OF LEA
Santa Clara	San Jose Unified
Shasta	Columbia Elementary
Shasta	Millville Elementary
Siskiyou	Hornbrook Elementary
Solano	Fairfield-Suisun Unified
Solano	Vacaville Unified
Sonoma	Alexander Valley Union Elementary
Sonoma	Petaluma City Elementary
Sonoma	Petaluma Joint Union High
Stanislaus	Hart-Ransom Union Elementary
Stanislaus	Stanislaus County Office of Education
Sutter	East Nicolaus Joint Union High
Sutter	Live Oak Unified
Sutter	Sutter County Office of Education
Tehama	Plum Valley Elementary
Tehama	Red Bluff Union Elementary
Tulare	Monson-Sultana Joint Union Elementary
Ventura	Rio Elementary
Ventura	Somis Union

COUNTY	NAME OF LEA

SB 472 Application Form

Fiscal Year 2006-07 (July 2007)

The following local educational agencies have submitted certification of assurance via a signed Application:

COUNTY	NAME OF LEA
Humboldt	Cuddeback
Humboldt	Mattole Valley Charter School
Kings	Reef-Sunset USD
Los Angeles	Los Angeles USD
Nevada	Nevada Joint Union High School District
Riverside	Coachella Valley USD
San Bernardino	Ontario-Montclair School District
San Diego	San Diego USD
San Joaquin	Tracy Unified School District
Santa Cruz	Pajaro Valley USD
Shasta	Fall River Joint USD
Sutter	Marcum-Illinois Union Elementary School

COUNTY	NAME OF LEA

ITEM #36

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Charter School Conflict of Interest Policies: Adopt Proposed Title 5 Regulations	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Consider comments received during the public comment periods and at the public hearing;
- Approve the Final Statement of Reasons;
- Adopt the proposed regulations; and
- Direct CDE to submit the rulemaking file to the Office of Administrative Law for approval.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its May 2007 SBE meeting, the SBE approved commencement of the rulemaking process. The public comment period began on May 25, 2007, and ends at 5:00 p.m. on July 10, 2007. The public hearing is scheduled for 9:00 a.m. on July 10, 2007.

SUMMARY OF KEY ISSUES

School district and county office of education governing boards are subject to the conflict of interest provisions applicable to certain public entities, pursuant to *Government Code* sections 1090 and 87100, et seq. Nonprofit and for-profit corporations have their own conflict of interest provisions, which differ from those applicable to public entities.

Charter schools are public schools, but they are often managed and operated by non-profit and/or for-profit corporations, creating potential confusion between the two sets of conflict rules. Some charter schools have created secondary nonprofit and for-profit

SUMMARY OF KEY ISSUES (Cont.)

organizations to provide the public charter school with programmatic and/or management services pursuant to contracts. In some cases, the charter school governing board members or officers are also principals of the contractor organizations.

This overlap presents the potential for abuse and calls for greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid participating in improper, self-interested transactions.

As a result of the experience gained through high-profile cases where charter schools were found to have significant audit exceptions related to conflicts of interest, the CDE proposes the adoption of regulations. Specifically, the CDE proposes to add Title 5, *California Code of Regulations*, Sections 11961 – 11961.10 to clarify the fiscal conditions that apply to charter schools and to clarify the standards to which charter school business transactions will be held by those entities with oversight authority, including the authority to revoke a charter for fiscal impropriety under *Education Code (EC)* sections 47604.32, 47604.5, 47605(b)(5)(l), and 47607(c).

FISCAL ANALYSIS (AS APPROPRIATE)

CDE reviewed the proposed regulations and found that there is a potential for unknown, but negligible, additional costs in charter schools that do not presently have or operate under conflict of interest policies. These costs would have to be absorbed within existing funding sources for charter schools, because charter schools do not have standing as local governmental entities to claim state-mandated cost reimbursement.

There is no fiscal impact on state government, nor is there fiscal impact on federal funding of state programs.

ATTACHMENT(S)

Attachment 1: Title 5, California Code of Regulations
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 19. Charter Schools
Article 1.2. Conflict of Interest Procedures (7 Pages)

An Item Addendum will provide a draft Final Statement of Reasons that includes a summary of (and draft responses to) the comments received during the public comment period.

Title 5. EDUCATION
Division 1. California Department of Education
Chapter 11. Special Programs
Subchapter 19. Charter Schools
Article 1.2. Conflict of Interest Policies

§ 11961. Conflict of Interest Policies Applicable to Charter Schools.

Unless a charter school is governed by the school district governing board or county board of education that authorized the charter and the board adheres to the conflict of interest statutes and regulations applicable to that body, the charter school shall comply with this chapter.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.1. Board of Directors' Duties.

(a) A member of a charter school board of directors shall perform his or her duties as a board member, including duties as a member of any committee of the board upon which the board member serves, in good faith, in a manner such board member believes to be in the best interests of the charter school and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing the duties of a board member, a board member shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

(1) One or more officers or employees of the charter school whom the board member believes to be reliable and competent in the matters presented;

(2) Counsel, independent accountants or other persons as to matters which the board member believes to be within such person's professional or expert competence; or

(3) A committee of the board upon which the board member does not serve, as to matters within its designated authority, which committee the board member believes to merit confidence, so long as, in any such case, the board member acts in good faith, after reasonable inquiry when the need therefore is indicated by the circumstances and without knowledge that would cause such reliance to be unwarranted.

(c) Except as provided in section 11961.3, a person who performs the duties of a board member in accordance with subdivisions (a) and (b) is deemed to have discharged the person's obligations as a board member and shall have no liability based on any alleged failure to discharge the person’s obligations as a board member.

(d) If the board of directors delegates the management of the activities of the charter school to one or more persons, management company or committee however composed, the activities and affairs of the charter school shall be managed by and all powers shall be exercised under the ultimate direction of the board, which shall not have the authority to delegate these ultimate responsibilities. Review and approval of the charter school budget shall not be delegated.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.2. Limitation on Interested Directors.

(a) Any other provision of this article notwithstanding, not more than 49 percent of the persons serving on the board of any charter school shall be interested persons.

(b) "Interested persons" means either:

(1) Any person currently being compensated by the charter school for services rendered to it within the previous 12 months, whether as a full- or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a director as director; or

(2) Immediate family members, as defined in section 11961.3, of any such person described in paragraph (1).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.3. Prohibition Against Self-Dealing.

For the purpose of this section, "immediate family" means any brother, sister, child (whether adopted or by birth), spouse, domestic partner, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother, father, mother-in-law, or father-in-law of any such person.

For purposes of this section, “indirect investment or interest” means any investment or interest owned by or on behalf of an immediate family member or an agent on behalf of a charter school board member or officer.

(a) A charter school board member or officer violates his or her duties described in section 11961.1 if he or she makes, participates in making or attempts to use his or her official position with the charter school to influence an action or decision in which he or she knows or has reason to know he or she has a financial interest.

(b) A charter school board member or officer has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the charter school or the public generally, on the board member or officer or a member of his or her immediate family, or on any of the following:

(1) Any entity in which the charter school board member or officer is a board member, officer, partner, trustee, employee, or holds any position of management or has a direct or indirect investment worth $2,000 or more.

(2) Any direct or indirect real property interest owned or held by the charter school board member or officer worth $2,000 or more.

(3) Any source of income aggregating $500 or more in value provided or promised to, or received by, the charter school board member or officer currently or within 12 months prior to the time when the decision is made, except for gifts or loans by a commercial lending institution made in the regular course of business on terms available to the general public.

(4) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating $360 or more in value provided to, received by, or promised to the charter school board member or officer within 12 months prior to the time when the decision is made.

(c) The provisions of this section do not apply to an action that:

(1) results in a benefit to one or more board members or officers because they are in a class of persons intended to be benefited by the action, and

(2) is approved or authorized by the charter school in good faith and without favoritism.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.4. Disqualification and Recusal.

A member of a charter school board of directors or a charter school officer who has a financial interest in an action within the meaning of section 11961.3 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

(a) Disclose the financial interest that gives rise to the conflict of interest or potential conflict of interest. The disclosure shall be made in sufficient detail to be such that the conflict or potential conflict shall be understood by the other charter school board members.

(b) Recuse himself or herself from discussing and voting on the matter, or otherwise using his or her position to influence the action in any way, and,

(c) If the item is considered in a closed meeting of the charter school board of directors, the interested board member shall not be present when the decision is considered or knowingly obtain or review a recording or any other non-public information regarding the decision. However, the interested board member is counted in determining the presence of a quorum at a meeting of the board which authorizes, approves, or ratifies a contract or transaction.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605 and 47607, Education Code.

§ 11961.5. Action Taken in the Charter School's Best Interest.

(a) A charter school action in which one or more board members or officers has a financial interest shall not be deemed to violate the duties described in section 11961.1 if the following facts are established:

(1) The charter school entered into the transaction for its own benefit;

(2) The transaction was fair and reasonable as to the charter school at the time the charter school entered into the transaction;

(3) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the board members then in office without counting the vote of the interested board member or board members, and with knowledge of the material facts concerning the transaction and the board member's interest in the transaction. Except as provided in subdivision (b), action by a committee of the board shall not satisfy this section; and

(4) After reasonable investigation and prior to authorizing or approving the transaction, the board considered and in good faith determined that the charter school could not have obtained a more advantageous arrangement with reasonable effort under the circumstances;

(b) An action by a committee or person representing the charter school shall not be deemed to violate section 11961.1 if:

(1) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in subdivision (a) of this section;

(2) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(3) The board, after determining in good faith that the conditions of paragraphs (1) and (2) were satisfied, ratified the transaction at its next meeting by a vote of the majority of the board members then in office without counting the vote of the interested director or directors.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.6. Overlapping Board Members.

(a) No contract or other transaction between a charter school and any other entity of which one or more of the charter school board members are board members is either void or voidable because such charter school board member or board members are present at the meeting of the charter school board of directors or a committee thereof which authorizes, approves or ratifies the contract or transaction, if:

(1) The material facts as to the transaction and as to such charter school board member's other board membership are fully disclosed or known to the charter school board of directors or committee, and the charter school board of directors or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common board member or board members; or

(2) As to contracts or transactions not approved as provided in subdivision (1) of this section, the contract or transaction is just and reasonable as to the corporation at the time it is authorized, approved or ratified.

(b) This section does not apply to transactions covered by section 11961.3.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.7. Prohibition on Loans to Board Members and Officers.

A charter school shall not make any loan of money or property to or guarantee the obligation of any board member or officer; except for advancing money to a board member or officer of the charter school for expenses reasonably anticipated to be incurred in the performance of the duties of the officer or board member, provided that in the absence of the advance, the officer or board member would be entitled to be reimbursed for the expenses by the school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

§ 11961.8. Conflict of Interest Disclosure Statement.

(a) Every member of a charter school board of directors and each charter school officer identified by the charter school board of directors shall file a conflict of interest

disclosure statement with the charter school not more than 30 days after assuming office, updated annually thereafter, and filed within 30 days after leaving office.

(b) Every person who is required to file an initial conflict of interest disclosure statement shall annually file an amended statement disclosing any changes that occurred during the period since the previous statement was filed.

(c) The conflict of interest disclosure statement shall be on a Form 700: Statement of Economic Interest available at http://www.fppc.ca.gov or on a form adopted for such purpose by the State Board of Education.

(d) Each individual's conflict of interest disclosure statement shall remain on file at the charter school's primary administrative office and made available, upon request, for inspection by the charter school's authorizing agency or member of the public.

(e) Auditor verification of compliance with this section, as well as reporting of related party transactions, shall be included in the charter school's annual audit.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 41020, 47604.32, 47604.5, 47605, and 47607, Education Code; Sections 81000-91015, Government Code.

§ 11961.10. Conflict of Interest Policy.

Every charter school shall adopt a conflict of interest policy meant to guard against the illegal or substantially improper use of charter school funds for the personal benefit of any officer, board member or fiduciary of the charter school. The conflict of interest policy sets forth the obligations of charter school officers and board members to conduct their duties in the best interest of the charter school. The conflict of interest policy shall be adopted by the board of directors, kept on file at the charter school's primary administrative office, and made available, upon request, for review by the charter school's authorizing agency.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32, 47604.5, 47605, and 47607, Education Code.

03-27-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 11, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: William J. Ellerbee, Jr., Deputy Superintendent
School and District Operations Branch

RE: Item No. 36

SUBJECT: Charter School Conflict of Interest Policies: Adopt or Amend Proposed Title 5 Regulations

The 45-day public comment period regarding these regulations has concluded, and a public hearing was held July 10, 2007, in accordance with the Administrative Procedure Act (APA). There were two speakers at the public hearing. Written comments received before the deadline and oral comments received at the public hearing are summarized in the Final Statement of Reasons attached, along with draft responses. Based on the comments received, the California Department of Education (CDE) recommends that the State Board of Education (SBE):

- Approve the proposed regulations; and
- Direct the CDE to complete the rulemaking package and submit the regulations to the Office of Administrative Law for approval.

Attachment 1: Draft Final Statement of Reasons (46 pages)

FINAL STATEMENT OF REASONS
Charter School Conflict of Interest Policies

UPDATE OF INITIAL STATEMENT OF REASONS

School district and county office of education governing boards are subject to the conflict of interest provisions applicable to public entities, pursuant to *Government Code* sections 1090 and 87100, et seq. Nonprofit corporations have their own conflict of interest provisions, which differ from those applicable to public entities. Charter schools, which are public schools yet may be managed and operated by nonprofit corporations, or even non-corporate governance structures, do not fit clearly into any category. Some charter schools have created secondary nonprofit organizations to provide the public charter school with programmatic and/or management services pursuant to contracts. In some cases, the charter school governing board members or officers are also principals of the contractor organizations. This overlap presents the potential for abuse and calls for greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid participating in improper, self-interested transactions.

The proposed addition of Title 5, *California Code of Regulations*, Sections 11961 – 11961.9 would clarify the fiscal conditions that apply to charter schools and to clarify the standards to which charter school business transactions will be held by those entities with oversight authority, including the authority to revoke a charter for fiscal impropriety under *Education Code (EC)* sections 47604.32, 47604.5, 47605(b)(5)(l), and 47607(c). The proposed regulations are the result of a working group of department staff, county officials, Fiscal Crisis Management Assessment Team (FCMAT), charter schools, and charter school association representatives, which met for over a year in the development of draft regulations.

The proposed regulations are necessary to ensure that charter schools are subject to conflict of interest provisions regardless of whether *Government Code* sections 1090 et seq. and 87100 et seq. are determined by the court (or by statutory change) to be applicable to charter schools and, if so, whether the provisions are applicable in all instances. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

SUMMARY AND DRAFT RESPONSES TO COMMENTS RECEIVED DURING THE INITIAL PUBLIC COMMENT PERIOD OF 45 DAYS, THROUGH JULY 10, 2007

The public comment period began on May 25, 2007, and ended on July 10, 2007. The following comments were received:

Janette Kiso, Director, Pacifica Community Charter School, in a letter dated June 8, 2007:

Comment: Ms. Kiso expressed her school's support for the proposed regulations, citing the need for clarity with respect to the form of governance structure and public transparency requirements applicable to charter schools, and the importance of maintaining opportunities for teachers and other stakeholders to participate in a charter school's governance.

Response. No response necessary.

Ronald D. Wenkart, General Counsel, Schools Legal Service, in a letter dated June 13, 2007:

Comment: The proposed regulations are unconstitutional and unnecessary because charter schools are part of the public school system and funded with state taxpayer funds, hence *Government Code* sections 1090 et seq. and 87100 et seq. regulate conflict of interest for charter schools.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. The Charter Schools Act does not limit the governance structures of charter schools but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: There is no necessity for the proposed regulations to effectuate the purposes of *Government Code* sections 1090 et seq. and 87100 et seq.

Response: The proposed regulations do not purport to effectuate the purposes of *Government Code* sections 1090 et seq. or 87100 et seq. Rather, they are intended to clarify the fiscal conditions that apply to charter schools and the standards to which charter school business transactions will be held by those entities with oversight authority.

Comment: The proposed regulations are contrary to existing law.

Response: We disagree. The proposed regulations are not contrary to existing law. No court decision or statute references *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances.

Comment: The proposed regulations would allow conflicts of interests that are not presently allowed under *Government Code* sections 1090 et seq. and 87100 et seq.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The regulations improperly distinguish between charter schools, applying to some of them and not others.

Response: Statute does not prohibit the State Board of Education (SBE) from including an exception to the regulations for charter schools that are governed by school district governing boards or county boards of education. Rather, *EC* section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Comment: The SBE cited *EC* sections 47604.32, 47604.5, 47605, and 47607 as authority for proposed regulatory Section 11961.

Response: The comment is incorrect. The SBE cites *EC* section 33031 as authority to adopt proposed Section 11961.

Comment: Proposed section 11961.1 is directly contrary to *Government Code* section 1090 et seq. and 87100 et seq. and the case law interpreting these provisions.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed section 11961.2 conflicts with *Government Code* sections 1090 et seq. and 87100 et seq.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed sections 11961.3, 11961.5, and 11961.6 allow conflicts of interest prohibited by existing law.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation, 39 Cal.4th 1164 (2007)*, the California Supreme Court drew specific distinctions between school districts and charter schools. Sections 11961.5 and 11961.6 are not inconsistent with any provision of law and, therefore, may be adopted by the SBE under *EC* section 33031.

Comment: The SBE has exceeded its authority in proposing conflict of interest regulations for charter schools which conflict with *Government Code* sections 1090 et seq. and 87100 et seq.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The SBE acted outside the scope of its authority when it adopted these regulations.

Response: We disagree. *EC* Section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Comment: The Office of Administrative Law should refuse to approve the proposed regulations.

Response: No response necessary.

Comment: The SBE did not consider alternatives to the proposed regulations, did not consider whether *Government Code* sections 1090 et seq. and 87100 et seq. were self-executing and therefore no regulations were necessary, and, if the SBE believed that these statutes did not apply to charter schools, it should have sought an Attorney General's Opinion to determine whether in fact their belief was correct.

Response: We do not believe that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances, hence, they are not "self-executing", making regulations unnecessary. To the contrary, the SBE is granted broad authority to adopt regulations (under *EC* section 33031) that are not inconsistent with law. Charter schools do not clearly "fit" within existing laws applicable to public agencies and nonprofit organizations, hence, the SBE believes that the proposed regulations are necessary to clarify the standards to which charter school business transactions must comply. As the entity responsible for administering state education law, the SBE has the ability, and the obligation, to promulgate regulations that are not inconsistent with law.

Jennifer McQuarrie, Legislative Advocate, Charter Voice, in a letter sent via E-mail and dated June 20, 2007:

Comment: CharterVoice supports the regulations in their present form because they provide clarity to the conflict of interest standards applicable for charter schools, and because they are consistent with the intent of the Charter Schools Act, which encourages direct stakeholder participation in the management of charter schools.

Response: No response necessary.

George E. McClure, Board President, San Pasqual Union School District, in a letter dated June 25, 2007:

Comment: Charter schools should be held to the same conflict of interest standards that are required of other school districts, because it is too easy for financial problems to crop up when loose standards are in place. This type of exemption was not envisioned at the time the charter school legislation was enacted; citizens need to be assured that their monies are being appropriately expended at all times.

Response: We do not concur that the proposed regulations provide "an exemption" to charter schools from the conflict of interest standards applicable to school districts because we do not believe that it has been made clear, either through legislation or through court actions, that charter schools are subject to *Government Code* section 1090 et seq. or *Government Code* section 87100 et seq. requirements in all instances. Our goal in proposing these regulations is to provide greater clarity of responsibilities on the part of certain charter school officers and board members to disclose potential conflicts of interest and to avoid their participation in improper, self-interested transactions. These regulations provide adequate disclosure of charter school

expenditures and financial transactions, including contracts, in such a way as to offer charter school stakeholders the opportunity to continue to participate in school governance while at the same time holding charter school officers and board members accountable.

Keith Bandy, Founder/CEO, Great Valley Education Foundation, in a letter dated June 25, 2007:

Comment: The Great Valley Education Foundation supports the regulations in their present form because they provide clarity to the conflict of interest standards applicable for charter schools, and because they are consistent with the intent of the Charter Schools Act, which encourages teacher and parent participation in the management of charter schools.

Response: No response necessary.

Jerry Houseman, Ed. D., Sacramento City School Board Member, via E-mail dated June 26, 2007:

Comment: Please retain the conflict of interest rules for charter school boards that are the same as the rules for public school boards. Charter schools are public schools. We have had to revoke two charters this year; in both cases the charter board members had lost focus.

Response: We do not concur that there are any clearly applicable conflict of interest requirements to "retain" with respect to charter schools. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

David Luskin, in an E-mail dated June 26, 2007:

Comment: Taxpayer funds, whether for regular schools or charter schools, should be spent well and not subject to waste brought on by conflicts of interest. Please ensure that the present level of conflict of interest standards is maintained; weakening the standards and signaling to charter schools that it is acceptable for their funds to be spent in an abusive manner due to conflicts of interest is a mistake.

Response: We concur that charter school funds should be spent well and without the issues surrounding conflicts of interest. However, we do not concur that there is any "present level of conflict of interest standards" to maintain, hence these regulations also do not represent a "weakening" of the standards. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area where before there has been none, and that by adopting these regulations, all charter schools will be subject to a minimum level of standards.

Barbara Robinson, Board Member, Gonzales Unified School District, in an E-mail dated June 26, 2007:

Comment: Charter school board members must be required to comply with the same conflict of interest laws as regular school board members; the money spent is public taxpayer money and needs to be protected.

Response: We concur that charter schools are publicly funded, and that these monies need to be protected. We do not concur, however, that charter schools are clearly subject to the same conflict of interest laws as regular school board members. Unless and until such time as legislation is enacted or a court decision is rendered that clearly applies the *Government Code* sections 1090 et seq. and 87100 et seq. requirements to charter schools, we believe that the proposed regulations provide the best alternative to simultaneously protect the public funds and maintain flexibility in charter school governance.

David Coffin, in an E-mail dated June 27, 2007:

Comment: Conflict of interest laws don't seem to have much effect on regular school districts, given how much money some board members receive from labor unions, developers, etc. The public usually is not advised of them except at election time. Before taking sides on this issue, my questions are, how would the public benefit by applying these rules to charters?

Response: The public will benefit by clarification of the standards to which charter school business transactions will be held by auditors and by those entities with oversight authority, as this will result in increased protection of public funds.

Comment: Charters do not have citywide or even local elections; if the public knew that some board members might have conflicts of interest, how would this be policed? Would board members be voted out?

Response: While public knowledge of a charter school board member's conflict of interest could result in that board member being removed from the governing board via public pressure or governing board policies adopted by the charter school, it is more likely that the "policing" would result from the charter school's authorizing entity via its supervisorial oversight role. Failure to comply with these regulations would be grounds for revocation of the charter school.

Comment: If charters receive private money (by board members seeking donations from special interests to the school), would that conflict of interest apply to all the board members?

Response: Charter schools often seek private funds and grant monies to supplement their state funding; doing so does not necessarily mean there will be a conflict of interest. Because charter school governing board members are not elected in the sense of an election of a traditional school board election (unless the governing board is one and the same as the governing board of the authorizing entity), and there is no need for fundraising to pay for the costs of an election, it is unlikely that "special interest" monies would be an issue in a charter school. These regulations are targeted at the issue of individual board members profiting by virtue of their position of authority on a charter school governing board, and their ability to make decisions on contracts which could benefit them personally.

Chris Ungar, Executive Director-Special Education, San Luis Obispo County Office of Education, in an E-mail dated June 30, 2007:

Comment: As a professional educator and school board president, I believe it is critical to maintain the highest standards of ethics for charter schools. When folks are responsible for public funds, they must be held accountable to the taxpayers and citizens for their actions. Opportunities for conflict of interest are great, therefore transparency is vital.

Response: We concur, and have proposed these regulations for the purpose of holding charter schools accountable for public funds. Currently, there is no clarity as to what conflict of interest standards, if any, are applicable to charter schools.

Brian Bauer, Executive Director, Granada Hills Charter High School, in a letter dated June 28, 2007 and via E-mail dated July 6, 2007:

Comment: The Granada Hills Charter High School strongly urges the SBE to approve these regulations. Under the California Charter Schools Act of 1992, charter schools are explicitly exempt from laws governing school districts, and instead are governed by the

terms of their charters and the Charter Schools Act. The law does not provide guidance on what a charter school's governance structure should look like, and because charter schools are exempt from the laws that typically govern school districts, there is considerable ambiguity regarding the form of governance structures and public transparency charter schools should apply.

Response: We concur that there is considerable ambiguity in existing law, and have proposed these regulations to clarify the standards for public transparency in charter schools.

Comment: It is vital to most charter schools that teachers and other stakeholders participate in a charter school's governance. We are satisfied that these proposed regulations recognize this unique characteristic of charter schools, and believe that these regulations strike a reasonable balance.

Response: No response necessary.

Gary Rutherford, Ed. D., Superintendent, Upland Unified School District, in a facsimile received July 5, 2007:

Comment: We strongly oppose regulations establishing less stringent conflict of interest policies applicable to charter schools operated by nonprofit corporations and other similar entities. The regulations are unnecessary given that all charter schools, including those operated by nonprofit corporations, are part of the public school system and operated by individuals who are officers of the public schools for purposes of receiving public monies.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. The Charter Schools Act, for example, permits a private institution of higher education to operate a charter school. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: A charter school's compliance with the conflict of interest laws that govern public agencies is vital to a charter school sponsoring entity's ability to oversee the operations of a charter school, that it alone will constitute a ground for denial of the charter school petition. When a charter school petition does not specify that the charter school's board will adhere to laws applicable to public agencies (including the California Brown Act and the Conflict of Interest laws), it presents an unsound governance

structure which unduly interferes with the sponsoring entity's ability to oversee the operations of the charter school.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. While there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* sections 1090 et seq. and 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions. As a charter authorizing entity, the Upland Unified School District (UUSD) may request its charter schools to agree to adhere to the *Government Code* sections 1090 et seq. and 87100 et seq. requirements for conflicts of interest, but we do not agree that this standard, if not agreed to by the charter petitioner, represents an "unsound governance structure."

Comment: The proposed regulations are contrary to public policy in favor of accountability, and inhibit a sponsoring entity's ability to properly oversee the operations of a charter school, which is necessary to ensure that the sponsoring entity is not potentially held liable for the debts and obligations of the charter school.

Response: We do not concur that the regulations are contrary to public policy; to the contrary, we believe that adoption of these regulations will provide accountability in charter schools which has been heretofore lacking in many instances, due in great part to the lack of clear guidance about what standards apply to charter school business transactions. These regulations do not abrogate with a charter school authorizer's ability to oversee the school's financial and business transactions. The UUSD may request its charter schools to adhere to the *Government Code* sections 1090 et seq. and 87100 et seq. requirements for conflicts of interest.

Caprice Young, President and CEO, California Charter Schools Association (CCSA), in a letter dated July 6, 2007, and also submitted via E-mail dated July 6, 2007, from Colin Miller, Policy Director, CCSA:

Comment: The California Charter Schools Association (CCSA) strongly urges the SBE to approve these regulations. Under the California Charter Schools Act of 1992, charter schools are explicitly exempt from laws governing school districts (*EC* section 47610),

and instead are governed by the terms of their charters and the Charter Schools Act. EC section 47605(b)(5)(E) requires each charter to describe the governance structure of the school as an element of the charter, and section 47604 explicitly allows a charter school to be operated by or as a nonprofit public benefit corporation in accordance with the California Corporations Code. These code sections combined make it clear that charter schools have considerable flexibility in establishing their own governance structure. If the Legislature had intended to encompass charter schools in the governance laws that apply to school districts, it would not have explicitly addressed charter governance in three sections of the Charter Schools Act. This flexibility results in different charter schools adopting different governance models.

Response: We concur that there is considerable ambiguity in existing law, and have proposed these regulations to clarify the standards for public transparency in charter schools.

Comment: CCSA is concerned that the new reporting requirement for a "Conflict of Interest Disclosure Statement" is an additional mandate on charter schools. While many charter school board members already file this form, it will impose a new requirement on many schools. We are also concerned that this requirement could stifle recruitment of board members who may be reluctant to publicly disclose financial information that would otherwise be private.

Response: While many charter schools are already voluntarily complying with conflict of interest guidelines in accordance with whatever they have committed to doing in their charter petitions, and are preparing disclosure statement forms in accordance thereof, there are other charter schools which have weak or ineffective conflict of interest policies in place. We believe this regulation is necessary, to provide transparency in charter school financial and business transactions in order to minimize misuse of public funds.

Comment: We generally believe that these regulations strike a reasonable balance because they recognize one of the key elements of successful charter schools: shared governance among key school stakeholders. We support the proposed regulations.

Response: No response necessary.

Celeste R. Beck, Principal, Tree of Life Charter School, in an undated letter transmitted via E-mail dated July 6, 2007:

Comment: The Tree of Life Charter School strongly urges the SBE to approve these regulations. Under the California Charter Schools Act of 1992, charter schools are explicitly exempt from laws governing school districts, and instead are governed by the terms of their charters and the Charter Schools Act. The law does not provide guidance on what a charter school's governance structure should look like, and because charter schools are exempt from the laws that typically govern school districts, there is

considerable ambiguity regarding the form of governance structures and public transparency charter schools should apply. Our sponsoring district, Ukiah Unified, has this year challenged the way we have governed our school for the last seven years, even though they approved our charter renewal in 2005.

Response: We concur that there is considerable ambiguity in existing law, and have proposed these regulations to clarify the standards for public transparency in charter schools.

Comment: It is vital to most charter schools that teachers and other stakeholders participate in a charter school's governance. We are satisfied that these proposed regulations recognize this unique characteristic of charter schools, and believe that these regulations strike a reasonable balance.

Response: No response necessary.

Joel Montero, Chief Executive Officer, Fiscal Crisis and Management Assistance Team, in a letter dated July 6, 2007, and transmitted via facsimile on July 9, 2007:

Comment: It is in the area of our work where we conduct extraordinary audits of school districts and charter schools where we encounter significant abuse of the conflict of interest rules. Charter schools have been designated by the legislature as part of the public school system, and the courts have agreed. (We agree with the letter of June 7, 2007, from Ronald Wenkart, the attorney for the Orange County Office of Education, with respect to his review of applicable law and citation to legal authority.) We believe that the common law of conflicts of interest found in *Government Code* section 1090 as well as the Fair Political Practices Act provisions found in *Government Code* sections 87100 et seq. are applicable to charter schools. Nothing in the "mega-waiver" in *EC* section 47610 makes these core principles of fiscal accountability inapplicable to the charter school part of the public school system.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. The Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental entities, institutions of higher education, etc. If, for example, a non-public institution of higher education is the governing entity for a charter school under the Charter Schools Act, the entity's governing board and officers are not necessarily transformed into public officials. In any event, if at some point in time a definitive determination is made that

Government Code sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: The proposed regulations are an outgrowth of an audit FCMAT conducted in 2005, and the most recent charter school audit conducted by FCMAT raises similar issues. In both of these instances, and in several other recent charter school audits FCMAT has been involved with, there have been serious violations of accounting standards pertaining to related party transactions. These violations have occurred because of the conflicts of interest inherent in having the operators of charter schools approve contracts between those schools and management companies and other business entities which they control and from which they derive income. These are precisely the kinds of relationships that the common law prohibition against conflicts of interest, embodied in *Government Code* section 1090, is intended to protect the public from.

Response: We concur that these regulations were an outgrowth of various audits of charter schools revealing serious violations of accounting standards pertaining to related party transactions. We believe the proposed regulations will protect against the relationships described by the commenter, without sacrificing the flexibility the legislature afforded charter schools in determining their own school governance structures.

Comment: Instead of sound conflict of interest principles, the regulations substitute a "good faith…in the best interests in the charter school" standard that has no basis in the law relating to the expenditure of public funds. In short, the regulations appear to sanction precisely the conduct that was uncovered by the FCMAT audits described above. The standard proposed in the regulations—by which operators are given the opportunity to excuse self-dealing by pronouncing it to be "in the best interests" of the charter—is insufficient to insure the level of fiscal accountability which the legislature and the public are entitled to expect.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. Rather than "substituting" a "good faith" and "best interests" standard for an outright prohibition (that we believe does not apply to charter schools in all instances), these regulations would require any charter school board member or officer who has a conflict of interest to recuse him/herself from discussing and voting on the matter or otherwise using his or her position to influence the action in any way.

Comment: I am advised by a member of the committee that drafted the regulations that one reason for the proposal is a concern that applying *Government Code* section 1090 to charter schools would prohibit charter school teachers from serving on charter school boards. I do not believe there is anything in *Government Code* section 1090 that would prevent a charter school teacher from serving as a member of a charter school board. A California Appellate decision (*Eldridge v. Sierra View Local Hospital District* [1990] 224 Cal.App.3d 311, 319-323) and an Attorney General's Opinion (73 Ops.Cal.Atty.Gen. 191 [1990]) ruled that already employed teachers could serve on their district's governing board. In response to these rulings, the legislature enacted *EC* section 35107(b)(1), which prevents school employees from taking office as members of their employing governing boards. It is this statute—not *Government Code* section 1090—that prevents school employees from serving on their own school boards. *EC* 35107(b)(1) does not apply to charter schools because of the "mega-waiver" (*EC* section 47610). In short, the regulations appear unnecessary to permit charter school teachers to serve on their charter governing boards.

Response: While a concern that applying *Government Code* section 1090 standards to charter schools would result in teachers being prohibited from participating on the charter governing boards that employ them was raised as part of the discussions leading to developing these regulations, it was not the primary reason for the proposal. As previously stated, our goal in proposing these regulations is to provide greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid their participation in improper, self-interested transactions. There is considerable ambiguity in existing law with respect to charter schools; charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

Gilbert Rossette, Superintendent, Mendota Unified School District, in a letter dated July 10, 2007, sent via facsimile dated July 9, 2007:

Comment: Conflict of interest and ethics laws are fundamental tools used to hold public officials accountable and to shine light on government actions; in order to be effective, these laws must apply across the board to all public officials. Charter schools are part of the public school system; they receive and spend billions of taxpayer dollars every fiscal year. If adopted, the proposed regulations would make charter school officials and

employees the only public schools representatives in California that have special exceptions to our long-standing and extensive array of conflict of interest laws.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: The proposed regulations would cause a great deal of confusion; they conflict with two primary conflict of interest laws (the Political Reform Act and the Government Code section 1090).

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation, 39* Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The Political Reform Act (PRA) assigns the Fair Political Practices Commission (FPPC) the task of adopting regulations to interpret and carry out the PRA (*Government Code* section 83112). The FPPC has advised that all charter schools are "local government entities" for purposes of the PRA, and they must comply with the PRA's conflict of interest and disclosure rules (FPPC Advice Letter A-98-234, 1998 WL 753303 [Oct. 26, 1998]). The FPPC has also advised that charter schools must either adopt a conflict of interest code or comply with the chartering school district's code (FPPC Advise Letter A-02-223, 2002 WL 31299660 [Sept. 26, 2002]). There is no authority for agencies to make exceptions or to adopt regulations that conflict with the PRA (*Government Code* section 81013). Similarly, although the *EC* allows the SBE to adopt rules and regulations regarding the government of school districts, those regulations must remain consistent with other laws of the state (*EC* section 33031).

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We

disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. While we concur that the FPPC is charged with adopting rules and regulations implementing the PRA, and we respect and value their advice letters pertaining to charter schools, it is the SBE that is charged with adopting rules and regulations pertaining to charter schools. We believe that this area is fraught with ambiguity, and hope to provide clarity for charter schools and their authorizers by establishing minimum standards to which they must adhere.

Comment: Like other conflict of interest laws, *Government Code* section 1090 is construed broadly, applying to all district officers or employees. Under *Wilson v. State Board of Education (Wilson, supra.* at p. 1141) charter school officials are "officers of public schools." Section 1090 applies to both officers and employees of charter schools. Under section 1090, it is insufficient for a member of a board or commission to abstain from voting; a multi-member body is prohibited from entering into any contract or affecting any contract with a sitting board member. The proposed regulations would carve out exceptions for this well-developed body of law, allowing both charter school board members and employees to act on contracts when they have a prohibited financial interest.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed sections 11961 and 11961.2 directly conflict with *Government Code* section 1090.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed sections 11961.3 and 11961.4 conflict with both *Government* Code section 1090 and the PRA.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed sections 11961.5 and 11961.6 also violate section 1090 because they allow a charter school board to enter into a transaction with a financially interested board member. Although the terms of these sections are borrowed from the Corporations Code, they do not fit when applied to public boards and local government agencies. When a financial interest is present, a board member cannot merely abstain; the entire board is prevented from acting.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed sections 11961.8 and 11961.10 conflict in numerous ways with the PRA for adopting conflict of interest codes and for filing of economic disclosure statements (FPPC Form 700).

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The proposed regulations exceed the SBE's regulatory authority.

Response: We disagree. *EC* Section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Comment: On a practical level these regulations will cause great uncertainty and confusion in the regulated community. Charter schools and their employees will be misled into believing they can either skip or partially comply with some provisions of ethics rules that apply statewide. School districts will not know how to exercise their oversight responsibility of charter schools with respect to legal compliance in this area.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. We do not concur that there are any clearly applicable conflict of interest requirements in existing law with respect to charter schools. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

Ken Burt, Liaison Program Coordinator, Governmental Relations, California Teachers Association, in a letter dated July 9, 2007, and sent via E-mail that same date; hard copy delivered in person at the public hearing of July 10, 2007:

Comment: *Government Code* sections 1090 et seq. and 87100 et seq. proposes a reasonable set of standards which should be comparable for charter schools. As a policy matter, it is critical that any regulations have a high standard strength and integrity to minimize violations of the public trust. The proposed regulations do not meet that standard, as such the California Teachers Association is opposed to these regulations.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the

California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The SBE should postpone action on this item until the California Department of Education (CDE) provides a thorough and complete analysis in a side-by-side comparison between what is proposed in the regulations and those set forth in *Government Code* sections 1090 et seq. and 87100 et seq.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. Hence, a side-by-side comparison of these laws, while interesting, would not be integral to making an informed decision about these regulations.

Sari Rynew, in an E-mail dated July 9, 2007:

Comment: A conflict of interest policy is a good first step in creating rules and regulations for charter schools which are already in place for public schools. I urge you to approve a conflict of interest policy, but also to create a site for reporting abuses with Whistle Blower protections. I also feel that many of the provisions of the proposed regulations should be included as items in charter school audits.

Response: Creation of a site for reporting abuses with Whistle Blower protections is outside the scope of these regulations; however, the adoption of the proposed conflict of interest provisions will help to facilitate oversight of charter school financial and business transactions, thereby helping to prevent some of the abuses which have occurred in the past. The SBE does not have the authority to promulgate regulations requiring potential conflicts of interest and related party transactions be included within the scope of audits.

Alexandra Torres Galancid, Executive Director, Women in Non-Traditional Employment Roles (WINTER), on behalf of Rosie the Riveter Charter High School, in a letter dated July 9, 2007, and submitted via facsimile on July 9, 2007:

Comment: Under the California Charter Schools Act of 1992, charter schools are explicitly exempt from laws governing school districts, and instead are governed by the terms of their charters and the Charter Schools Act. The law does not provide guidance on what a charter school's governance structure should look like, and because charter schools are exempt from the laws that typically govern school districts, there is considerable ambiguity regarding the form of governance structures and public

transparency charter schools should apply. We urge the SBE to approve these regulations.

Response: We concur that there is considerable ambiguity in existing law, and have proposed these regulations to clarify the standards for public transparency in charter schools.

Comment: It is vital to most charter schools that teachers and other stakeholders participate in a charter school's governance. We are satisfied that these proposed regulations recognize this unique characteristic of charter schools, and believe that these regulations strike a reasonable balance.

Response: No response necessary.

Laura Jeffries, Legislative Advocate, Association of California School Administrators, in a letter dated July 9, 2007, and submitted via hard copy on July 10, 2007:

Comment: The Association of California School Administrators (ACSA) believes the proposed regulations are unconstitutional and unnecessary, and must oppose these regulations.

Response: We disagree. The proposed regulations are not unconstitutional and unnecessary, and they do not exceed the SBE's regulatory authority. The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. If, in the future, a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: Charter schools are public schools and receive public funds; charter school officers and employees are also part of the public school system. Because of these two facts, charter school officers and employees must comply with the same provisions of the *Government Code* (sections 1090 et seq. and 87100 et seq.) as any other public school officer or employee does.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if

space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: In a 1998 opinion, the Attorney General of California clarified that although a charter school operates independently of an existing school structure, it may not be formed as a legal entity separate from the school district that granted the charter. This is true of nonprofit corporations that govern a charter school; they are still public schools and are still reviewed by the entity that authorized its existence. The CDE has reinforced this opinion and has stated that a charter school is considered a governmental agency and part of the public school system.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, as previously stated, we believe existing law to be ambiguous with respect to the applicability of conflict of interest laws to charter schools. Our goal in proposing these regulations is to provide greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid their participation in improper, self-interested transactions.

Comment: The SBE has exceeded its authority in proposing these regulations since they are in direct conflict with *Government Code* section 1090 et seq. and 87100 et seq. The SBE does not have the discretion to promulgate regulations that are inconsistent with the governing statute or that alter or amend the statute or expand its scope.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The *Government Code* sections apply to school districts, county offices of education, and charter schools. It does not make a distinction between charter schools operated by a school district or county office of education or a charter school operated by a nonprofit corporation. There is no authority to adopt regulations that single out charter schools operated by nonprofit corporations which differ from the requirements of

Government Code sections 1090 et seq. and 87100 et seq. Creation of a separate conflict of interest system for charter schools operated by nonprofit corporations creates a separate school system, which is unconstitutional.

Response: We disagree. Statute does not prohibit the SBE from including an exception to the regulations for charter schools that are governed by school district governing boards or county offices of education. Rather, *EC* section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Dr. Arun Ramanathan, Executive Director, Government Relations, San Diego Unified School District, in a letter dated July 10, 2007, and submitted via E-mail July 10, 2007:

Comment: Proposed section 11961 would impose a new conflict of interest policy solely applicable to charter schools. It is our understanding that since charter schools are funded by taxpayer dollars, they must adhere to Government Code 1090 and 87000, which outline the Conflict of Interest law for entities that manage public monies. The Association of California School Administrators (ACSA) and the California School Boards Association (CSBA) have expressed their opposition to this proposed policy. We concur with their position.

Response: We concur that charter schools are funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: One major area of concern that is not fully addressed in the proposed policies is the issue of overlapping board members (between a charter school and any other entity of which one or more of the charter board members are also a board member). The proposed policy in section 11961.6 lacks clarity. At the local level, there have been instances where a member of a charter school's board sits on the board of another entity such as the school's Charter Management Organization (CMO). Other members of the charter school board may be a board member of the CMO as well. It has been our experience in these cases that there is a very real possibility that what is in the best interests of the CMO is not in the best interest of the charter school. Each charter school is entitled to the undivided loyalty of the members of its governing board.

Response: We do not agree that proposed section 11961.6 lacks clarity, and no suggestions for improving this section's clarity were received for consideration. We also

do not agree that the regulation fails to acknowledge that there are instances where board members may sit on the board of a number of charter schools that are operated by a single entity. In our Initial Statement of Reasons, we state that this provision is necessary to ensure the efficient operations of a charter school and to clarify that contracts or transactions are not automatically invalidated by overlapping director interests of the contract or transaction is made in the best interests of the charter school, the material facts were made known, and the vote of the member or members with a financial interest was not counted.

Comment: Section 11961.1 of the proposed policy fails to acknowledge that there are instances where board members may sit on the board of a number of charter schools that are operated by a single entity. In this case, a board member may not focus on the best interests of the particular school they represent, but rather have the interests of the larger entity in mind, indicating the possibility of conflicting interests. For example, in the situation of the California Charter Academy, the State of California authorized an audit which concluded, among other things, that an individual sitting on numerous charter school boards may violate the common law doctrine of “incompatible offices” which restricts the ability of public officials to hold two different public offices simultaneously if the offices have overlapping and conflicting public duties.

Response: We disagree. Proposed section 11961.1 enumerates the duties required of a charter school board of directors; this requirement is placed on sitting board members responsible for the governance of the charter school irrespective of the number of other charter schools that member may represent. If an individual sitting on numerous charter school boards cannot represent the interests of an individual school, and his or her actions are shown to be such, then that member would not be in compliance with this section. We believe that proposed section 11961.1 is an important first step in clarifying what duties and responsibilities are expected of a charter school governing board, especially given the current ambiguity in existing law.

Comment: Another area of concern is the limitation in section 11961.2 on interested directors to 49% of the persons serving on the board of any charter school. We are concerned about this provision and suggest that this portion of the policy not be adopted. If such a policy is adopted, a charter school board consisting of up to 49% interested persons would expose the school to having a bare majority consistently voting on items that might benefit a substantial number of directors. This section would present an opportunity for corruption and self-dealing, and would produce a heightened level of confusion for charter operators.

Response: The regulation as proposed ensures that a majority of members do not have conflicts.

Comment: The prohibition against self-dealing is lacking in section 11961.3 and will serve to further obfuscate the line between what is considered self-dealing and what is not.

Response: The cited section in fact defines the prohibition against self-dealing.

Comment: Under section 11961.4 addressing disqualification and recusal, it appears contradictory and counter-intuitive that an interested board director must recuse him or herself from a closed meeting of the charter school board of directors; yet that same director can, "still be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves, or ratifies a contract or transaction." A board director is either present or absent. This provision will prove to be difficult to follow and implement at the local level.

Response: Establishment of a quorum is separable from voting on individual matters. The two provisions are not contradictory.

Comment: Section 11961.5, addressing action taken in the charter school's best interest, appears to contradict the first section of this proposed policy – Section 11961.1. This contradiction has the potential to produce confusion, especially when implementing and performing ex-post facto audits and reviews of board minutes. The question of whether a board decision or transaction is in the "best interest" of the charter school is not a measurable standard and would create a lack of clarity for both charter boards and authorizing agencies.

Response: On the contrary, section 11961.5 provides necessary elaboration on "the best interests of the charter school" as referenced in section 11961.1. The sections are not contradictory.

Comment: To summarize, we have serious concerns regarding the proposed Conflict of Interest Policies for California charter schools. Because the Legislature has spoken on issues of conflict of interest, it would appear that conflict of interest is within the scope of the Legislature's authority rather than the authority of the State Board of Education. Absent express legislative direction, it would appear that the State Board of Education may lack the authority to create conflict of interest regulations governing charter schools. It is our understanding that Government Code sections 1090 and 87000 are existing law that should apply to charter schools since they are managing public resources. Charter schools should, therefore, be held accountable to the public, in the way that public school district governing boards and other public entities are held accountable. Charter school boards should also be held to the same level of responsibility. Again, we concur with the position presented by ACSA and CSBA on the proposed Conflict of Interest Policies for charter schools.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all

purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Mark Sanders, Fenton Avenue Charter School, in an E-mail dated July 10, 2007:

Comment: One of the reasons that Fenton is such a great school, and so effective at helping students succeed, is its teachers. Fenton has been able to attract quality teachers because they know they have a voice. Knowing I can express my views is why I have remained at Fenton for eleven years. Here are just a few of the decisions I have been a part of this year:

* Developing a Mission Statement for our up coming Primary Center (sic)
* Refining our grading system to ensure they are standards based.
* A social studies and science textbook adoption
* The daily schedules, yearly calendar, and even the supply room hours

These are just a few examples how I have made my voice heard at Fenton. Our school is built upon everyone having a say. Taking away our voice would seriously hurt our school and therefore hurt our students.

Response: While it is not entirely clear whether the commenter is in support or opposition of the proposed regulations, the example of how this teacher has been empowered to participate in school governance reflects the need to maintain flexibility in school governance for charter schools and their stakeholders. Our goal in proposing these regulations is to provide greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid their participation in improper, self-interested transactions. We believe that these regulations will provide adequate “sunshining” of charter school expenditures and financial transactions, including contracts, in such a way as to offer charter school stakeholders the opportunity to continue to participate in school governance while at the same time holding charter school officers and board members accountable.

Victoria Li, Senior Deputy General Counsel, San Francisco Unified School District, in a letter sent via E-mail dated July 10, 2007:

Comment: Conflict-of-interest and ethics laws are fundamental tools used to hold public officials accountable and to shine light on government actions. In order to be effective, however, these laws must apply across the board to all public officials. Charter schools are part of the public school system. Charter school officials are “officers of public schools to the same extent as members of other boards of education of public school districts.” (*Wilson v. State Board of Education* (1999) 75 Cal.App.4th 1125, 1141.) Charter schools also receive and spend billions of taxpayer dollars every fiscal year.

Response: We concur that charter schools are part of the public school system and funded with state taxpayer funds. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. A charter school does not, for example, operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. In any event, if at some point in time a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Comment: If adopted, however, the proposed regulations would make charter school officials and employees the only public schools representatives in California that have special exceptions to our long-standing and extensive array of conflict-of-interest laws. This may invite potential abuses if charter school officials are able to act in their own financial self-interest. On a more practical level, the proposed regulations would also cause a great deal of confusion. These regulations conflict with the two primary conflict-of-interest laws, the Political Reform Act and Government Code section 1090. They exceed the Board of Education's regulatory authority.

Response: We do not concur that the proposed regulations provide "an exemption" to charter schools from the conflict of interest standards applicable to school districts because we do not believe that it has been made clear, either through legislation or through court actions, that charter schools are subject to *Government Code* section 1090 et seq. or *Government Code* section 87100 et seq. requirements in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

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Comment: The Political Reform Act (PRA) assigns the Fair Political Practices Commission (FPPC) the task of adopting regulations to interpret and carry out the PRA. (*Government Code* section 83112.) The FPPC has performed this task for 30 years. As part of its long-standing duties, the FPPC has advised that all charter schools are "local government agencies" for purpose of the PRA, and they must comply with the PRA's conflict of interest and disclosure rules. (FPPC Advice Letter A-98-234, 1998 WL 753303 (Oct. 26, 1998).) Each local government agency is required to adopt and maintain a conflict-of-interest code. (*Government Code* section 87300.) Each code must specify those public officials that are required to file economic disclosure statements (FPPC Form 700). And each code must specify situations in which those employees and officials may be required to disqualify themselves from participating in a government decision. (*Government Code* section 87300 et seq.) The FPPC has also

advised that charter schools must either adopt a conflict-of-interest code or comply with the chartering school district's code. (FPPC Advice Letter A-02-223, 2002 WL 31299660 (Sept. 26, 2002).)

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. While we concur that the FPPC is charged with adopting rules and regulations implementing the PRA, and we respect and value their advice letters pertaining to charter schools, it is the SBE that is charged with adopting rules and regulations pertaining to charter schools. We believe that this area is fraught with ambiguity, and hope to provide clarity for charter schools and their authorizers by establishing minimum standards to which they must adhere.

Comment: The Political Reform Act does allow state and local agencies to impose additional requirements on public officials. But there is no authority for agencies to make exceptions or to adopt regulations that conflict with the PRA. Similarly, although the *EC* allows for the SBE to adopt rules and regulations regarding the government of school districts, those regulations must remain consistent with other laws of the state. (*EC* section 33031.)

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Like other conflict of interest laws, *Government* Code section 1090 is construed broadly, and applies to all district officers or employees. Under *Wilson v. State Board of Education*, charter school officials are "officers of public schools." (*Wilson, supra,* at p. 1141.) Section 1090 applies to both officers and employees of charter schools. The term "financial interest" is not specifically defined, but our courts and the Attorney General's advisory opinions have advised that any direct or indirect financial interest qualifies. For example, the income received from employment is clearly a financial interest subject to scrutiny under section 1090, even if there is no written contract. (*See* 68 Ops.Cal.Atty.Gen. 337 at p. 14.) The interest a public official has in the earnings or assets of a spouse also qualifies as a financial interest under

section 1090. (*Thorpe v. Long Beach Community Coll. Dist.* (2000) 83 Cal.App.4th 655, 659.) These are common situations that may arise in the charter school context.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Under section 1090, it is insufficient for a member of a board or commission to abstain from voting. The law presumes that a board member is involved in making all contracts coming under a board's jurisdiction. (*Thomson v. Call* (1985) 38 Cal.App.3d 633, 649.) This means that section 1090 prevents a multi-member body from entering into any contract or affecting any contract with a sitting board member. (*See* California Dept. of Justice, CONFLICTS OF INTEREST (2004) at p. 71; *see also* 84 Ops.Cal.Atty.Gen 126 (2001).) Unfortunately, as discussed below, the proposed regulations carve out exceptions for this well-developed body of law. The regulations would allow both charter school board members and employees to act on contracts when they have a prohibited financial interest.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The proposed regulations directly conflict with the provisions of the Political Reform Act, as well as with the FPPC's regulations interpreting the PRA. Any regulation that conflicts, alters, or enlarges the governing statute is void. (*Slocum v. State Bd. of Equalization* (2005) 134 Cal.App.4th 969, 974.)

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Section 11961 directs every charter school that is not already under the direction of a school district governing board or a county office of education to follow the proposed regulations. Because they are contrary to the PRA and require much less than the PRA, any charter school following the proposed regulations will violate the PRA. This type of regulation is expressly prohibited by Government Code section 81013. ("Nothing in this title prevents the Legislature or any other state or local agency from imposing additional requirements on any person if the requirements do not prevent the person from complying with this title.")

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Section 11961.2 would allow up to 49 percent of a charter school's board of directors to consist of "interested persons," which includes persons being compensated for personal services. This arrangement is prohibited by section 1090. Any adoption of or change to the board member's employment contract would be illegal. It would be insufficient for the board member to abstain. (*Thomson v. Call*, *supra*, 38 Cal. 3d at 649.) Unfortunately, section 11961.2 would allow charter school board members to be interested persons and to vote on his or her own employment contract; this directly conflicts with Government Code section 1090.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Section 11961.3 attempts to borrow the definitions of a "financial interest" found in the Political Reform Act. This regulation conflicts with both section 1090 and the PRA. With respect to section 1090, the regulation proposes to allow a charter school board member to abstain from voting or participating in a decision if he or she has a financial interest. Again, Government Code section 1090 does not allow for a board member to abstain. Mere presence on the board is a conflict of interest. Section 11961.3 sanctions a violation of section 1090.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: As for the PRA, the definitions inserted into subdivision (b) of this regulation are narrow and incomplete. Section 11961, subdivision (b) defines the financial interests that a charter school board member should watch out for. This language is borrowed from *Government Code* section 87103 in the PRA, but the regulation does not refer to the PRA and its many complex definitional statutes. The regulations are simply a summary of the language found in the PRA. This selective wording leaves many questions unanswered for the regulated community. Does the term "real property" used in subdivision (b)(2) include a leasehold, as it does in the PRA? (*See Government Code* section 82033.) Does the term "entity" include for-profit and nonprofit entities?

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. These proposed regulations are not intended to selectively apply portions of the PRA to charter schools; rather, they are regulations established for the purpose of applying minimum standards to charter schools for public disclosure of financial and business transactions. Hence, the other definitions referred to by the commenter would not apply, as they are not included within the scope of the regulations, and were not intended to do so.

Comment: More importantly, these regulations would impermissibly exempt a large swath of charter school employees and consultants from both the Political Reform Act and section 1090. Section 11961.3 applies to charter school "board members" and "officers." However, the term "officers" is not defined. Presumably it means either those officers on the board of directors, or some unknown category of employees who hold managerial positions. The PRA does not define the term "officer," nor does section 1090. But both the PRA and section 1090 apply to virtually every employee and to at least some consultants of a local government agency. Section 11961.3 would allow some unknown subset of charter school employees and consultants to take part in government decisions despite an unlawful financial interest.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. Because of the ambiguity in existing law, there is no clear standard to which charter school employees and consultants must adhere. Our goal in proposing these regulations is to provide greater clarity of responsibilities on the part of charter school officers and board members to disclose potential conflicts of interest and to avoid their participation in improper, self-interested transactions.

Comment: Subdivision 11961.3(c)(1) exempts any action that benefits a board member or officer because that board member or officer is in the class of persons benefited, and the action is taken in "good faith." This conflicts directly with the PRA, which contains explicit definitions of what is or is not a conflict of interest. (*Government Code* section 87103.) FPPC regulations do allow for exceptions for actions that affect "the public generally." However, nowhere in the PRA is there a "good faith" exception to the law. Similarly, section 1090 voids a transaction even if it is advantageous to the public agency. Good faith is not part of the analysis.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Section 11961.4's procedure for disqualification and recusal conflicts with the PRA and section 1090. As noted above, under section 1090, if a board member has a conflict of interest, abstaining is not enough. The board is prohibited from entering into the contract. By allowing an all-purpose recusal, section 11961.4 conflicts with this bedrock rule. Under the PRA, officials who hold offices specified in *Government Code* section 87200 have specific requirements for disclosing a conflict and abstaining. Charter school board members may qualify as "persons who manage public investments." If they do, then the PRA requires more than what proposed section 11961.4 says. In addition to announcing the conflict of interest and abstaining, the board member would be required to leave the room during discussion of the matter. (*Government Code* section 87105.) Section 11961.4 says nothing about this requirement.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Sections 11961.5 and 11961.6 also violate section 1090 because they allow a charter school board to enter into a transaction with a financially interested board member. Although the terms of these sections are borrowed from the Corporations Code, they do not fit when applied to public boards and local government agencies. Again, when a financial interest is present, a board member cannot merely abstain; the entire board is prevented from acting.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Sections 11961.8 and 11961.10 conflict in numerous ways with the Political Reform Act's rules for adopting conflict of interest codes and for filing of economic disclosure statements (FPPC Form 700). The PRA requires that a conflict of interest code contain numerous provisions, such as:

- the types of situations where an employee designated in the conflict of interest code must disqualify himself or herself (*Government Code* section 87302(c)); and
- the kinds of business positions, income, and real property that an employee must identify on an economic disclosure statement. (*Government Code* section 87302(a))

These sections also do not require officials to file an economic disclosure statement when they leave an office, as is required by *Government Code* section 87302, subdivision (b). Section 11961.8 only requires officials to file a statement when they assume an office and once annually.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections

1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Beyond the legal concerns, on a practical level these regulations will cause great uncertainty and confusion in the regulated community. Charter schools and their employees will be misled into believing that they can either skip or partially comply with some provisions of ethics rules that apply statewide. School districts will not know how to exercise their oversight responsibility of charter schools with respect to legal compliance in this area.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. We do not concur that there are any clearly applicable conflict of interest requirements in existing law with respect to charter schools. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

Sue Ann Salmon Evans, Miller Brown & Dannis, in a letter dated July 10, 2007, and submitted via facsimile July 10, 2007:

Comment: We write in support of the comments submitted by the Legal Alliance of the California School Boards Association (CSBA) regarding the proposed regulations governing conflicts of interest for charter school board members. Our firm has reviewed over 200 charter school petitions since the inception of the Charter Schools Act, and has also represented school districts with respect to the revocation of charters. In the course of doing so, we have come to see the operational and legal difficulties related to charter school officials refusing to commit to following the conflict of interest laws and regulations applicable to all public officials. We have advised a number of school

districts on charter revocations that involve the abuse of public trust and public funds by charter school officials who act in defiance of the standards applicable to public officials. We agree with the assessment by the CSBA Legal Alliance that the proposed regulations fall outside of the authority of the State Board of Education and would subvert the important objective of requiring charter school officials to comply with the conflict of interest laws applicable to public officials.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation, and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

Comment: The California Court of Appeal in *Wilson v. State Board* (2000) 75 Cal.App.4th 1125, 1141, made it clear that "charter school officials are officers of public schools to the same extent as members of other boards of education of public school districts. So long as they administer charter schools according to the law and their charters, as they are presumed to do, they stand on the same constitutional footing as noncharter school board members." There is no basis in law or policy to justify compromising the applicability of the conflict of interest provision to charter school officials.

Response: We concur that charter schools are part of the public school system and that charter school officials are officers of public schools. However, it is not clear that a charter school is a "district" within the meaning of *Government Code* section 1090. It is similarly unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc. If at some point in time a definitive determination is made that *Government Code* sections 1090 and

87100, et seq. do apply to charter schools, then these regulations would not in any way limit the application of those statutes.

Gene Livingston, Greenberg Traurig, LLP, for the California School Boards Association (CSBA) Education Legal Alliance ("Alliance"), via E-mail dated July 10, 2007:

Comment: The proposed regulations violate the necessity, authority, and consistency standards of *Government Code* sections 11342.1, 11342.2, and 11349.1, by assuming that the existing conflict of interest statutes of *Government Code* sections 1090 et seq. and 87100 et seq. do not apply to board members and executives of charter schools governed by entities other than school district or county office of education governing boards and by proposing conflict of interest regulations for such charter schools that are inconsistent with sections 1090 et seq. and 87100 et seq.

Response: We disagree. The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: *Government Code* section 11342.2 provides that no regulation adopted is valid unless reasonably necessary to effectuate the purpose of a statute. The proposed regulations are not necessary to effectuate any section identified by the Board as the statutes being implemented, interpreted, or made specific. The Board lists *Education Code* sections 47604.32, 47604.5, 47605, and 47607. Section 47604.32 sets out certain duties of the chartering authority; none of the duties relates to conflicts of interest. Section 47604.5 authorizes the Board to revoke a charter for gross financial mismanagement or misuse of charter school funds for the personal benefit of an officer, director, or fiduciary of the school. If the proposed regulations were limited to defining conduct of the charter school that would or would not result in revocation of the charter under this section, it might be deemed necessary to effectuate this section. However, the regulations extend far beyond this limited purpose and define standards to judge conduct for all purposes. Section 47605 sets out the procedure for establishing a charter school. While this section includes provisions for audits and monitoring by local education agencies, it contains no provision requiring the adoption of the proposed regulation to effectuate its purpose. Finally, section 47607 relates to charter terms, renewals, revisions, and revocations. Similar to section 47604.5, this section authorizes the chartering authority to revoke a school's charter for failing to meet generally accepted accounting principals, engaging in fiscal mismanagement, or violating any provision of law. Again, if the proposed regulation were limited to defining conduct that would and would not constitute grounds for revocation, this section might form the basis

for establishing necessity. However, as noted above, the proposed regulations extend far beyond this limited purpose and define standards to judge conduct for all purposes.

Response: The proposed regulations provide elaboration that the SBE has determined to be reasonably necessary to effectuate *EC* sections 47604.32, 47604.5, 47605, and 47607. *EC* section 47604.32 places duties on chartering authorities in relation to supervision and oversight. Having conflict of interest policies is essential for chartering authorities to ensure that charter schools' actions in approving reports and managing finances, for example, have been (and continue to be) proper and legal. *EC* section 47604.5 sets forth various reasons justifying the SBE's taking of "appropriate action," including revocation of a school's charter, based upon the recommendation of the State Superintendent of Public Instruction (SSPI), regardless of whether the SBE is the chartering authority. Having conflict of interest policies is essential for the SSPI and the SBE understanding whether, for example, gross financial mismanagement or substantially improper use of funds by a charter school has occurred (which are circumstances warranting revocation of the school's charter under this section). *EC* section 47605 sets forth, among other things, the essential elements that must be included in a school's charter, and governance structure is among these elements. Having conflict of interest policies, and clarifying to what standards they must adhere, is essential to a charter school's governance structure. *EC* section 47607 sets forth, among other things, various reasons for chartering authorities to revoke charters, subject to certain conditions. Having conflict of interest policies is essential for chartering authorities to determine, for example, whether fiscal mismanagement or violations of law have occurred (both of which are conditions of revocation by a charter school's authorizing entity).

The fact that the proposed regulations have implications beyond the referenced statutes does not preclude their adoption under the authority cited, *EC* section 33031. The authority broadly empowers the SBE to adopt regulations not inconsistent with law.

Comment: In addition to lacking a statute that the regulations are reasonably necessary to effectuate, the specific cited goals for necessity are invalid. The Board asserts that *Government Code* sections 1090 and 87100 and following apply to charter schools governed by school district and county office of education governing boards, but they do not apply to charter schools governed by other entities; hence, it is necessary to adopt a conflict of interest regulation to apply to them. The Board's assumption that sections 1090 and 87100 and following do not apply to charter schools governed by other entities is wrong as a matter of law. Accordingly, no necessity exists for the proposed regulations.

Response: We disagree. The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter

schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Certainly the Fair Political Practices Commission has concluded that sections 1090 and 87100 and following apply to all charter schools. A school district sought specific advice from the FPPC in 2002 as to whether the *Government Code* sections apply to a charter school operated by a nonprofit corporation. The FPPC concluded that such a school is a local government agency and the governing board members are subject to the conflict of interest provisions. In the 2002 response, the FPPC relied on an earlier advice letter also involving a charter school operated by a nonprofit corporation. The FPPC applied four criteria to determine whether the charter school was a local governmental agency within the meaning of the *Government Code*, and found all four criteria to be satisfied.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. We recognize that the FPPC is charged with adopting rules and regulations implementing the PRA, and we respect and value their advice letters pertaining to charter schools. However, it is the SBE that is charged with adopting rules and regulations pertaining to charter schools. We believe that this area is fraught with ambiguity, and hope to provide clarity for charter schools and their authorizers by establishing minimum standards to which they must adhere.

Comment: Nothing in the *Education Code* supports an assumption that certain charter schools are not covered by the *Government Code* conflict of interest provisions. Section 47604 allows a charter school to be operated by a nonprofit corporation. However, no provision in the *Education Code* makes any distinction between charter schools operated by school district and county office of education governing boards and those operated by other entities.

Response: We disagree. Statute does not prohibit the SBE from including an exception to the regulations for charter schools that are governed by school district governing boards or county offices of education. Rather, *EC* section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Comment: An invalid argument could be fashioned out of the 1985 incorporation of *Government Code* section 1090 in the *Education Code* section 35233. The argument would then be that *Education Code* section 47610 exempts charter schools from most of the *Education Code*, including section 35233. This argument fails for several reasons.

First, *Government Code* section 1090 applied to public school board members from the time of its adoption. The language makes this clear. Government Code section 1090 provides as follows:

> Members of the Legislature, state, county, district, judicial district, and city officials or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.
>
> As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

Certainly, the application of section 1090 to school districts was made explicit in *People v. Darby* (1952) 114 Cal.App.2d 412. In short, *Government Code* section 1090 applies to all public schools on the basis of its terms and does not depend on the 1985 incorporation in the *Education Code*.

Response: We disagree that the language is clear in this instance. As previously stated, a charter school does not operate within limited boundaries, but rather must enroll students (if space is available) regardless of the place of residence within the state. We find this language ambiguous with respect to its possible applicability to charter schools, and repeat that no court decision has found *Government Code* section 1090 et seq. specifically applicable to charter schools in all instances.

Comment: Second, the theoretical argument depends on the conclusion that the 1985 incorporation and the subsequent enactment of the Charter Schools Act implicitly repeal section 1090 as it applies to charter schools. The law is well settled that a presumption against repeal by implication exists. Absent an express exemption for charter schools from Government Code section 1090, no basis exists for concluding that it does not apply to charter schools governed by nonprofit corporations.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Third, the Board recognizes that *Government Code* section 1090 applies to charter schools governed by school district and county offices of education governing

boards. Hence, no implicit repeal occurred by virtue of the enactment of the Charter Schools Act. Further, no provision exists in the Charter Schools Act to support the conclusion that the Legislature intended for conflict of interest rules to apply differently to charter schools governed by nonprofit corporations.

Response: We disagree. The reason for our proposed exemption of charter schools governed by school district and county offices of education governing boards is because in these cases, the governing board of the charter school is one and the same as that of the duly elected governing board of the authorizing school district or county office of education. In these instances, the *Government Code* section 1090 requirements apply to board members by virtue of their simultaneously holding office with the school district or county office of education.

Comment: Fourth, *Government Code* sections 87100 and following apply to public schools, and are part of the Political Reform Act (PRA) of 1974. Government Code section 87100 provides as follows:

> No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Response: It is unclear that a member of a charter school governance structure is a public official within the meaning of *Government Code* section 87100. As noted above, the Charter Schools Act does not limit the governance structures of charter schools, but rather envisions many different forms of governance being developed, including nonprofit, governmental agencies, institutions of higher education, etc.

Comment: Fifth, no provision in the Charter Schools Act reflects any intent by the Legislature to amend Government Code sections 87100 and following so as to exclude their application to certain charter schools. In fact, such an amendment would be invalid under the express terms of the 1974 initiative. It provides, as codified in section 81012, that it may be amended only by a two-thirds vote of both houses of the Legislature, and then only “to further its purposes.” Exempting any public school entity from the application of the Political Reform Act of 1974 would be contrary to the purposes of that initiative and accordingly invalid.

Response: We disagree. The Charter Schools Act, under *EC* section 47605(b)(5)(D), requires that a charter school’s governance structure will be specified by the charter school in its charter petition.

Comment: Apart from the incongruity of the Board proposing a regulation that seeks to immunize only certain charter school board members and executives from the existing conflict of interest laws, the purposes and the grounds for necessity cannot be achieved. In fact, the proposed regulations may serve only as a trap to ensnare charter

school board members and executives who rely on its provisions. The section in these comments on Consistency provides a fuller discussion about the inconsistency between these regulations and the applicable conflict of interest provisions. Suffice it to say at this point that good faith, disclosure of interest, and even recusal cannot validate the self-dealing that this proposed regulation attempts to condone. Any charter school board member or executive who relies on this regulation does so at substantiated risk.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: By the express terms of *EC* section 33031 the Board lacks authority to adopt any regulation "inconsistent with the laws of this state." As described in the following section, the proposed regulations are inconsistent with the existing conflict of interest provisions. Accordingly, the Board lacks authority to adopt them.

Response: Again, this comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances, whereas no court decision has found these statutes specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. Hence, we disagree that these proposed regulations are "inconsistent with the laws of this state," and believe that they meet the authority test under the Administrative Procedures Act.

Comment: As noted in the comment on Necessity, *Government Code* sections 1090 and 87100 and following apply to all public schools, all charter schools, including those governed by entities other than school district and county office of education governing boards. Since that is the case, the proposed regulations are unnecessary. Because the proposed regulations are inconsistent with existing conflict of interest provisions, they set a trap for charter school board members and executives. Finally, their very inconsistency renders them invalid.

Response: We disagree with the presumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. As we have previously stated, no court decision has found that these provisions apply to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. Hence, we do not agree that these proposed regulations are either inconsistent or invalid on that basis.

Comment: Proposed regulatory section 11961 makes a distinction between charter schools governed by a school district or county office of education governing board and charter schools governed by other entities. As noted above, *Education Code* section 47604 allows charter schools to be operated by nonprofit corporations; however, nothing in the Charter Schools Act provides that such schools are to be treated dissimilar from charter schools governed by school district and county office of education governing boards. Hence, the section that defines the application of these regulations to only limited charter schools is inconsistent with the Charter Schools Act.

Response: Statute does not prohibit the SBE from including an exception to the regulations for charter schools that are governed by school district governing boards or county boards of education. Rather, *EC* section 33031 empowers the SBE broadly to adopt regulations that are not inconsistent with law.

Comment: Proposed regulatory section 11961.1 provides that a charter school director who acts in good faith and relies on information provided by credible sources "is deemed to have discharged the person's obligations as a board member and shall have no liability based on any alleged failure to discharge the person's obligations as a board member." The effect of this section is that it seeks to immunize charter school board members from any liability by acting in good faith and in relying on information from credible sources. The breadth of that provision no doubt renders it inconsistent with numerous statutes and court decisions. Certainly, it is inconsistent with existing conflict of interest provisions that have been construed to hold that "good faith" and advice from others is no defense to self-dealing.

In *Call v. Thomson* (1985) 38 Cal.3d 633, the California Supreme Court made clear that neither good faith nor reliance on the advice of others validates self-dealing. "Neither the absence of actual fraud nor the possibility of a 'good faith' mistake on Call's part can affect the conclusion that this contract violates section 1090 and is therefore void." (*Call*, p. 646.) "Indeed, he did seek and obtain advice from the city attorney on certain occasions, and he did follow the specific advice he received." (*Call*, p. 647.) That fact did not change the outcome in this case.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. However, if in the future a definitive determination is made that these provisions of law do apply to charter schools in all instances, then these regulations would not in any way limit the application of those statutes, and if a court decision renders the regulations invalid, then they would, in effect, be null and void.

Comment: Proposed regulatory section 11961.2 restricts the membership of interested members on the governing board of a charter school to no more than 49% of the members. No statutory provision in the Charter Schools Act supports this restriction. This section seems to be included for the purpose of leaving a majority of the board members free to take action that benefits other members of the board. Accordingly, this section is part of the overall scheme of these regulations to avoid the rigorous restrictions of the conflict of interest provisions. This attempt fails. As the Supreme Court stated, "Mere membership on the board or council establishes the presumption that the officer participated in the forbidden transaction or influenced other members of the council." (*Call*, p. 649.)

Response: The standard referred to (no more than 49% of the members) reflects the nature of the governance structure utilized by the majority of the charter school governing boards to whom these regulations are directed – those operated by nonprofit corporations. Charter schools operated by school district governing boards and county boards of education would not be affected, as *Government Code* sections 1090 et seq. and 87100 et seq. apply to those entities. We disagree that these regulations are an attempt to avoid the rigorous restrictions of the conflict of interest provisions—as previously stated, no court decision has found that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes.

Comment: Proposed regulatory section 11961.3 contains prohibitions against self-dealing in subdivision (a) and defines a financial interest in subdivision (b). Subdivision (c) provides that the prohibition against self-dealing set out in subdivisions (a) and (b) do not apply if the action benefits one or more board members because they are in a class of persons intended to be benefited and the action is "approved or authorized by the charter school in good faith and without favoritism." As noted with respect to proposed regulatory section 11961.1, good faith does not validate an action that benefits any board members. An action involving benefit to one or more board members because they are in a class is addressed by existing conflict of interest provisions. This is true specifically with respect to teachers who serve on school boards. This provision, however, applies to board members and officers and contains no limitation on the class of person intended to be benefited. This provision could easily be applied to a fact situation that runs afoul of existing conflict of interest provisions, resulting in severe penalties for a board member or officer of the charter school.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed regulatory section 11961.4 provides that a board member or officer who has a financial interest in an action shall disclose that interest to other board members, recuse him or herself from the action, and absent him or herself if the item is considered in a closed meeting. Once again, the California Supreme Court's discussion in *Call v. Thomson* demonstrates the inconsistency of this proposed regulatory provision with existing law. "Moreover, California Courts have consistently held that the public officer cannot escape liability for a section 1090 violation merely by abstaining from voting or participating in discussions or negotiations." (*Call*, p. 649.) In addition, the Court said, "Similarly, the full disclosure of an interest by an officer is also immaterial, as disclosure does not guarantee an absence of influence. To the contrary, it has been suggested that knowledge of a fellow officer's interest may lead other officers to favor an award which would benefit him." (*Call*, pp. 649 and 650.)

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: Proposed regulatory section 11961.5 validates an action in which one or more board members or officers has a financial interest provided the charter school entered into the transaction for its own benefit, the transaction was fair and reasonable, the board approved the transaction in good faith without counting the interested board member or members' votes with knowledge of the board member's interest, and concluded that the charter school could not have obtained a more advantageous arrangement under the circumstances.

This section again conflicts with the California Supreme Court decision in *Call v. Thomson*. There, the Court said, "In short, if the interest of a public officer is shown, the contact cannot be sustained by showing that it is fair, just and equitable as to the public entity. Nor does the fact that the forbidden contract would be more advantageous to the public entity than others might be have any other bearing upon the question of its validity." (*Call*, p. 649.) The basis for the Court's reasoning is the articulation of the purpose behind the conflict of interest provision. The Court describes those purposed as follows: "No man can faithfully serve two masters whose interests are or may be in conflict." All charter schools are governed by the existing conflict of interest provisions, Government Code Sections 1090 and 87100 and following. The regulations, attempting to create an exception from those provisions, are invalid because they are inconsistent with those provisions.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools.

Comment: The Board's proposed regulations are invalid. They violate the necessity, authority and consistency standards of the Administrative Procedure Act, and Government Code sections 11340 and following. The Board proposes these regulations on the assumption that the existing conflict of interest provisions do not apply to charter schools governed by entities other than school district and county office of education governing boards. That assumption is legally incorrect. Accordingly, no necessity exists for the adoption of these regulations.

These proposed regulations, to be authorized, would have to be consistent with existing law. Specifically, that means these regulations designed to govern the conflict of interest of certain charter schools must be consistent with existing conflict of interest provisions. They are not in numerous ways. Accordingly, these proposed regulations fail on the grounds that the Board has no authority to adopt these proposed regulations because they are inconsistent with other provisions of the law. That inconsistency further renders them invalid.

Response: We disagree. The SBE has the authority, under *EC* section 33031, to adopt regulations that are not inconsistent with existing law. The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances; no court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances. Hence, we do not concur that there are any clearly applicable conflict of interest requirements in existing law with respect to charter schools. As previously stated, charter schools often operate simultaneously within both the public school system and under the operational requirements of a nonprofit corporation. Hence, while there are a number of charter schools that have, within the context of their school's charter and with the agreement of their chartering entity, agreed to adhere to the *Government Code* section 1090 et seq. and *Government Code* section 87100 et seq. requirements, there are also a number of charter schools operating under policies established under their nonprofit articles of incorporation. and others operating under weak or ineffective conflict of interest policies. We believe that the proposed regulations will provide needed clarity in this area, and ensure that charter school officers and board members disclose potential conflicts of interest and avoid participating in improper, self-dealing transactions.

SUMMARY AND DRAFT RESPONSES TO COMMENTS RECEIVED ORALLY AT THE PUBLIC HEARING OF JULY 10, 2007:

Ken Burt, Liaison Program Coordinator, Governmental Relations, California Teachers Association:

Comment: There is nothing good about this set of regulations. Part of the problem is that a standard is being proposed for private, nonprofit corporations, when using public funds. We've reviewed the regulations and we've also reviewed the *Government Code* sections 1090 et seq. and 87100 et seq. The *Government Code* contains a reasonable set of standards which should be comparable to charter schools. I've seen the testimony of other individuals and a number of legal arguments questioning the SBE's authority to be doing these regulations, and while I concur with those arguments, probably the more serious problem is a policy matter. I am urging on behalf of the California Teachers Association that you postpone action on this item. The CDE failed to prepare a thorough and complete analysis and a side-by-side comparison between what the department is proposing in these regulations and the standards set forth by *Government Code* sections 1090 et seq. and 87100 et seq., which were intended to prevent gross self-dealing and breaches of the public trust. Public officials, even politicians, have to follow the *Government Code* standards, so it defies logic that charter schools should have a lower standard. This whole proposal should be abandoned and the department should start over again. As a matter of public policy we need high standards that minimize violations of the public trust; these proposed regulations don't even come close to meeting that standard. At a minimum the department owes to the SBE a side-by-side comparison, because if the SBE sees it, I would be shocked if the SBE lets charter schools slide with such a very low standard of accountability.

Response: The comment is premised on the assumption that *Government Code* sections 1090 et seq. and 87100 et seq. apply to charter schools in all instances. We disagree with the assumption. No court decision has found *Government Code* sections 1090 et seq. or 87100 et seq. specifically applicable to charter schools in all instances, nor has the court found school districts and charter schools comparable for all purposes. In *Wells v. One2One Learning Foundation,* 39 Cal.4th 1164 (2007), the California Supreme Court drew specific distinctions between school districts and charter schools. Hence, a side-by-side comparison of these laws, while interesting, would not be integral to making an informed decision about these regulations. We do not believe that it is necessary to further postpone a decision of these regulations, as a 45-day public comment period has already been provided and none of the comments received offer suggested revisions which would help to further clarify the proposal. To "abandon" the proposal and start over would leave charter schools and their authorizers with continuing ambiguity as to what standards apply to charter schools. If in the future a definitive determination is made that *Government Code* sections 1090 and 87100, et seq. do apply to charter schools, either through statute or court ruling, then these regulations would not in any way limit the application of those statutes.

Jan Isenberg, Los Angeles County Office of Education:

Comment: The Los Angeles County Office of Education requests an extension, of a minimum of 60 days, before the SBE makes a final vote of these proposed regulations. The county office sees many issues with respect to the proposal with which they would like to take a deeper look, and because there are so many things involved with conflict of interest legislation, an extension is needed.

Response: We disagree; a 45-day public comment period has been made available in accordance with the Administrative Procedures Act requirements, and we believe that adequate time has been given to consideration of this proposal.

COMMENTS RECEIVED AFTER THE CLOSE OF THE 45-DAY PUBLIC COMMENT PERIOD:

Gregory McNair, Chief Administrative Officer, Charter Schools Division, Los Angeles Unified School District

ALTERNATIVES DETERMINATION

The State Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations.

LOCAL MANDATE DETERMINATION

There is a potential for unknown, but negligible, additional costs in those charter schools that do not presently have or operate under their own policies for conflicts of interest or under applicable Corporations Code provisions dealing with conflicts of interest. These costs may result from developing and implementing conflict of interest policies, enforcing the proposed filing requirements for employee conflict of interest statements, and maintaining records for audit inspection. Any additional cost will be covered by base charter school funding from revenue limits since these charter schools do not have standing as a local governmental body to claim state-mandated costs.

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ITEM # 37

CCALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
No Child Left Behind Act of 2001: Highly Qualified Teachers - Adoption of Proposed Title 5 Regulations Section 6100 and 6104-6105.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The 45 day public comment period has not closed. CDE's recommendation will be provided in an item addendum.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On May 10, 2007, the SBE approved the commencement of the rulemaking process for the proposed regulations to the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings (VPSS). California's Revised State Plan of Action for No Child Left Behind: Highly Qualified Teacher was approved by the SBE in November 2006, and by the United States Department of Education in December 2006. In that plan, a commitment is made to develop a new subject matter verification process for secondary alternative education and secondary special education teachers as a means to provide an opportunity for them to meet No Child Left Behind (NCLB) Highly Qualified Teacher (HQT) requirements.

The VPSS was approved by the SBE in January 2007. In the same action, the SBE directed the CDE to develop regulations authorizing the VPSS. In May 2007, the SBE approved the Commencement of Rule Making Process.

Preliminary HQT compliance percentages from October 2006, by school level and type as of March 2007, indicate that alternative education sites, including all secondary special education teachers, and teachers who teach in home/hospital programs, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court school, county community schools, district community day schools, small rural school achievement program schools, and independent study programs, continue to be staffed, in high numbers, by teachers for whom the currently authorized methods for complying with NCLB

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-HQT requirements are unreasonable. After meeting with numerous stakeholder groups and talking extensively to county office personnel, the CDE determined

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that three significant issues have prevented these

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION (Cont.)

programs from being compliant. The first and foremost issue is that of teacher credentialing. Under California *Education Code (EC)* Section 44865:

> …A valid teaching credential issued by the State Board of Education or the Commission for Teacher Preparation and Licensing, based on a bachelor's degree, student teaching, and special fitness to perform, shall be deemed qualifying for assignment as a teacher in the following assignments...

As a result, a local educational agency (LEA) has the flexibility to assign a teacher to teach subjects outside the scope of their credential authorization. Therefore, many of these types of teachers have received insufficient content area training. The second issue is the very nature of these programs. Typically, teachers assigned to these programs teach many or all subjects to students of multiple grade levels and abilities; additionally the environment and student challenges can make these alternate programs the most difficult places to recruit and retain highly qualified staff. The third issue is that many of these programs are in very isolated locations or are in secure facilities, making the required multiple observations by personnel with strong subject matter backgrounds, necessary for HOUSSE Part 2, very problematic.

To address these issues, and specifically the issue of subject matter acquisition and verification, the CDE authorized the Ventura County Office of Education to create a rigorous content verification process for secondary teachers in special settings who teach programs such as those listed above. The VPSS is the result of that process.

SUMMARY OF KEY ISSUES

The CDE, pursuant to the NCLB Act of 2001, presents regulations with proposed changes in response to comments made during the 45 day comment period to add the VPSS to California's current high quality teacher requirement procedures. The proposed *California Code of Regulations (CCR),* Title 5, Section 6105, develops an alternative HOUSSE Process for Secondary Teachers in Special Settings. Proposed *CCR,* Title 5, Section 6100, adds new definitions related to the VPSS process. This action is authorized by the final regulations for the reauthorization of the Individuals with Disabilities in Education Act (IDEA) of 2004. These regulations were published in the *Federal Register* Vol. 71, No. 156 on August 14, 2006, and became official 60 days after appearing in the register. The regulations clarified that states may create what the NCLB law terms a HOUSSE specifically for special education teachers (Section 300.18[e]). Additionally, federal guidance encouraged states to develop a HOUSSE process for other secondary teachers who are assigned to teach multiple NCLB core academic classes in alternative settings.

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SUMMARY OF KEY ISSUES (Cont.)

The VPSS is designed for teachers who teach in the following settings:

- secondary special education settings;
- secondary alternative programs, as specified by *EC* Section 44865, are limited to the following: home teacher, hospital classes, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court schools, county community schools, and community day schools; and
- Secondary Small Rural School Achievement Programs.

The regulations currently found in sections 9510-9530 of the *CCR*, Title 5, Division I, will be revised, renumbered, and adopted by the CDE pursuant to the Administrative Procedure Act.

FISCAL ANALYSIS (AS APPROPRIATE)

The Fiscal Impact Statement was submitted and approved by the SBE in May 2007.

ATTACHMENT(S)

Attachment 1: Title 5, EDUCATION
Division 1, California Department of Education
Chapter 6. Certified Personnel
Subchapter 7. No Child Left Behind Teacher Requirements
Article 1. General (7 Pages)

Attachment 2: Final Statement of Reason will be provided as an item addendum

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Title 5. EDUCATION

Division 1. California Department of Education

CHAPTER 6. CERTIFIED PERSONNEL

SUBCHAPTER 7. NO CHILD LEFT BEHIND TEACHER REQUIREMENTS

ARTICLE 1. GENERAL

§ 6100. Definitions.

For purposes of No Child Left Behind Teacher Requirements, the following definitions shall apply:

(a) "Advanced Credentialing" means a~~: A~~ teacher who has achieved National Board Certification ~~is considered to have Advanced Credentialing~~.

(b) "Coursework Equivalent to Undergraduate Major" means~~: T~~thirty-two nonremedial semester units in a particular discipline from an accredited institution of higher education shall constitute coursework equivalent to an undergraduate major.

(c) "Credential" means a~~: A~~ Preliminary, Professional Clear or Life Credential, or any teaching credential issued under prior statutes, that authorizes a person to teach in California K-12 schools.

(d) "Elementary, Middle and High School" means the~~: T~~he local educational agency shall determine, based on curriculum taught, by each grade or by each course, if appropriate, whether a course is elementary, middle or high school.

(e) "First Day of School"~~: The first day of school~~ is the first day of school that students report to the school per the district school calendar.

(f) "Grade Span".: The local educational agency shall determine, based on curriculum taught, which grades shall be included in the elementary, middle, or high school grade spans.

(g) "Hired" means a~~: A~~ teacher is hired when they accept employment at the school district. The date a teacher is hired is not affected by a change of assignments or schools within the district. The date a teacher is hired in a district does not affect a teacher's "new" or "not new" to the profession status.

(h)~~(i)~~ "International Teacher" means a~~: A~~ credentialed teacher prepared in a country other than the United States.

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(i) "Level 1 Professional Development" means training that will provide a teacher the requisite understanding of each set of Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(j) "Level 2 Professional Development" means training that will provide a teacher the requisite understanding of each set of Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve from an advance standpoint. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(k) "SRSA" means Small Rural Schools Achievement Program as defined in the *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B.

(l) "Middle and High School Level Teachers in Special Settings" means:

(1) Middle and high school level special education teacher as defined in California Education Code section 56058 who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting and who is either a Teacher New to the Profession as defined in section 6100(n) or a Teacher Not New to the Profession as defined in section 6100(o);

(2) or a middle or high school level teacher who is assigned to teach under California Education Code section 44865 and who is either a Teacher New to the Profession as defined in section 6100(n) or a Teacher Not New to the Profession as defined in section 6100(o).

(m) "Special Settings Middle and High School Level Teacher" means:

(1) a special education teacher who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting;

(2) a teacher who is or may be assigned to teach in a secondary alternative program, as specified by California Education Code section 44865, and limited to the following: home teacher; hospital classes; necessary small high schools; continuation schools; alternative schools; opportunity schools; juvenile court schools; county community schools; and community day schools; and

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(3) secondary SRSA programs.

(n)~~(h)~~ "Teacher New to the Profession" means a~~: A~~ teacher is new to the profession if they have graduated from an accredited institution of higher education and received a credential, or began an approved intern program, on or after July 1, 2002.

(o)~~(i)~~ "Teacher Not New to the Profession" means a~~: A~~ teacher is not new to the profession if they graduated from an accredited institution of higher education and received a credential, or were enrolled in, or had completed, an approved intern program before July 1, 2002.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); Section 44275.4, Education Code; *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

§ 6104. High Objective Uniform State Standard Evaluation (HOUSSE).

(a) The high objective uniform state standard evaluation shall consist of HOUSSE Part 1 and HOUSSE Part 2 ~~two parts~~. ~~The first~~

(1) HOUSSE Part 1 ~~part~~ shall be a summation of:

(A)~~(i)~~ years of experience teaching in the grade span or subject~~,~~. In no event shall years of experience account for more than half of the total necessary to demonstrate subject matter competency.

(B)~~(ii)~~ core academic coursework in assigned grade span or subject,

(C)~~(iii)~~ in-depth standards aligned professional development, and

(D)~~(iv)~~ service to the profession including but not limited to presenter or consultant of ~~in the relevant~~ core ~~academic~~ content area standards-based professional development; core subject-matter mentor; academic curriculum coach; university supervising master teacher; instructor at a regionally accredited college/university in content area/content methodology; Beginning Teacher Support and Assessment support provider in the core content area; published author on core curriculum area; national/state recognition as "Outstanding Educator" in content area/grade span; leadership role in the core content area on a high school accreditation team; facilitator

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or leader of a local instructional materials adoption committee in the core subject taught. ~~In no event shall (i) years of experience account for more than half of the total necessary to demonstrate subject matter competency.~~

(2) ~~The second part~~ HOUSSE Part 2 shall consist of direct observation and portfolio assessment in the grade span or subject taught. HOUSSE Part 2 ~~The second part of the high objective uniform state standard evaluation~~ will only be conducted if HOUSSE Part 1 ~~Part One~~ does not identify sufficient experience, coursework, professional development or service to demonstrate subject matter competence.

(c)~~(b)~~ The high objective uniform state standard evaluation observation and portfolio section (Part ~~Two~~ 2) may be conducted at the time and by the means utilized to satisfy Education Code ~~S~~section 44662, except that:

(1) subject matter shall be defined as the State Academic Content Standards adopted by the State Board of Education pursuant to Education Code ~~S~~section 60605 for the grades and subjects taught, and

(2) competency shall be demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing pursuant to Education Code ~~S~~section 44225(a). The demonstration of subject matter competence shall include one or more of the following:

(1) Classroom observation

(2) Demonstration of knowledge of the appropriate grade-level and subject State Academic Content Standards, and

(3) Portfolio review of lesson plans and student work for one academic ~~Year~~ period as defined by the teacher setting.

(d)~~(c)~~ Local educational agencies shall conduct the California H~~h~~igh O~~o~~bjective U~~u~~niform S~~s~~tate S~~s~~tandard E~~e~~valuation by completing Form 1 - NCLB Teacher Requirements: Certificate of Compliance (revised November 12, 2003), Form 2 - California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 1 - Assessment of Qualifications and Experience (revised November 12, 2003) and Form 3 - California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 2 - Assessment of Current Qualifications through Classroom Observation and/or Portfolio Development (revised November 12, 2003), as

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appropriate. Forms 1, 2, and 3 are hereby incorporated by reference into this section. Local education agencies may attach completed forms containing the same information as Forms 1, 2 and/or 3 to those forms rather than transcribing that information onto the applicable Form 1, 2, and 3.

(e)~~(d)~~ A teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation, and shall consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject for which the teacher is demonstrating subject matter competency. A teacher must demonstrate subject matter competency only once for each grade span or subject taught.

(f)~~(e)~~ If the teacher does not satisfactorily meet standards 3 and 5.1 of the California Standards for the Teaching Profession as part of the NCLB evaluation, then subject matter competency shall be demonstrated through completion of the Peer Assistance and Review Program for Teachers or other individualized professional development plan, pursuant to Education Code section 44664, aimed at assisting the teacher to meet standards 3 and 5.1 of the California Standards for the Teaching Profession.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USD 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

§ 6105. Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings.

(a) To use the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings the teacher must:

(1) Have at least a bachelors degree,

(2) Have an Intern Certificate/Credential for no more than three years, or a California State credential,

(3) Have demonstrated compliance in one NCLB Core Academic Subject as defined in the NCLB (20 USC 9101[11]) including elementary multiple subjects.

(b) If a teacher has less than 32 semester non-remedial units but at least 20 total or

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10 upper division non-remedial semester units (or quarter unit-equivalent) in a NCLB core academic subject as defined in NCLB section 9101[11], the teacher must complete a Level 2 High Quality Professional Development Course as defined in section 6100(j) in the NCLB core academic subject. In Level 2, the teacher demonstrates an understanding of each set of Content Standards for California public schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours is required to substantively address subject matter content at this level.

(c) If the teacher has less than 20 total or 10 upper division non-remedial semester units (or quarter unit-equivalent) in an NCLB core academic subject, the teacher must complete a Level 1 High Quality Professional Development Course as defined in section 6100(i) and Level 2 High Quality Professional Development Course as defined in section 6100(j) in the NCLB core academic subject. In Level 1, the teacher demonstrates an understanding of each set of Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours is required to substantively address subject matter content at Level 1. In addition, teachers must also complete the Level 2 requirements, which include at least an additional 36 hours. Level 1 and 2 courses should meet the induction requirements for the Level II Education Specialist Credential program requirements, as defined in the *Standards of Quality and Effectiveness for Education Specialist Credential Programs*, California Commission on Teacher Credentialing, December 1996.

(d) To meet the high quality professional development specifications for the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings, the professional development will be consistent with state-adopted academic content standards, curriculum frameworks and adopted texts, and will incorporate the Content Specifications as outlined in the document California's Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings.

(e) Local educational agencies shall conduct the Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings by completing

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Form 4 – Certificate of Compliance for Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings (revised February 21, 2007). Form 4 is hereby incorporated by reference into this section. Local educational agencies may attach completed form containing the same information as Form 4 rather than transcribing that information onto the applicable Form 4.

(f) The superintendent of any district/county will attest that the professional development offered for Level 1 and Level 2 meets the subject matter specifications as outlined in section 6105(b), (c) and (d).

(g) The district/county will make the master list of approved Level 1 and Level 2 Professional Development available to the public upon request.

(h) The Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings will only be available to Middle or High School Level Teachers in Special Settings as defined in section 6100(l) and Special Education teachers as defined in section 6111(b).

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

4-25-07 [California Department of Education]

State of California **Department of Education**

ITEM ADDENDUM

DATE: July 10, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 37

SUBJECT: No Child Left Behind Act of 2001: Highly Qualified Teachers - Adoption of Proposed Title 5 Regulations Section 6100 and 6104-6105.

Enclosed are the updated Title 5 Regulations and the Final Statement of Reasons. The Final Statement of Reasons includes the comments from the field and corresponding California Department of Education responses during the 45 day public comment period that ended on July 9, 2007.

Attachment 1: Title 5, EDUCATION
Division 1, California Department of Education
Chapter 6. Certified Personnel
Subchapter 7. No Child Left Behind Teacher Requirements
Article 1. General (8 Pages)

Attachment 2: Final Statement of Reasons (13 Pages)

Title 5. EDUCATION

Division 1. California Department of Education

CHAPTER 6. CERTIFIED PERSONNEL

SUBCHAPTER 7. NO CHILD LEFT BEHIND TEACHER REQUIREMENTS

ARTICLE 1. GENERAL

§ 6100. Definitions.

For purposes of No Child Left Behind Teacher Requirements, the following definitions shall apply:

(a) "Advanced Credentialing" means a~~: A~~ teacher who has achieved National Board Certification ~~is considered to have Advanced Credentialing~~.

(b) "Coursework Equivalent to Undergraduate Major" means~~: T~~thirty-two nonremedial semester units in a particular discipline from an accredited institution of higher education shall constitute coursework equivalent to an undergraduate major.

(c) "Credential" means a~~: A~~ Preliminary, Professional Clear or Life Credential, or any teaching credential issued under prior statutes, that authorizes a person to teach in California K-12 schools.

(d) "Elementary, Middle and High School" means the~~: T~~he local educational agency shall determine, based on curriculum taught, by each grade or by each course, if appropriate, whether a course is elementary, middle or high school.

(e) "First Day of School"~~: The first day of school~~ is the first day of school that students report to the school per the district school calendar.

(f) "Grade Span".: The local educational agency shall determine, based on curriculum taught, which grades shall be included in the elementary, middle, or high school grade spans.

(g) "Hired" means a~~: A~~ teacher is hired when they accept employment at the school district. The date a teacher is hired is not affected by a change of assignments or schools within the district. The date a teacher is hired in a district does not affect a teacher's "new" or "not new" to the profession status.

(h)~~(j)~~ "International Teacher" means a~~: A~~ credentialed teacher prepared in a country other than the United States.

(i) "Level 1 Professional Development" means training that will provide a teacher the requisite understanding of **~~each set of~~ grades' seven through twelve** Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(j) **"Level 2 Professional Development" means training that will provide a teacher a more in-depth understanding than was provided in level 1 of the student content standards for grades seven through twelve in the student Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve** "**~~Level 2 Professional Development" means training that will provide a teacher the requisite full understanding of each set of grades' seven through twelve Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve from an advanced standpoint~~**. At least 36 hours in the core subject for which the teacher is being certified is required to substantively address subject matter content at this level.

(k) "SRSA" means Small Rural Schools Achievement Program as defined in the *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B.

(l) "Middle and High School Level Teachers in Special Settings" means:

(1) Middle and high school level special education teacher as defined in California Education Code section 56058 who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting and who is either a Teacher New to the Profession as defined in section 6100**(n)(m)** or a Teacher Not New to the Profession as defined in section 6100**~~(o)~~(n)**;

(2) **~~or a middle or high school level teacher who is assigned to teach under California Education Code section 44865~~ a teacher who is or may be assigned to teach in a secondary alternative program, as specified by California Education Code section 44865, and limited to the following: home teacher; hospital classes; necessary small high schools; continuation schools; alternative schools;**

opportunity schools; juvenile court schools; county community schools; and community day schools; and who is either a Teacher New to the Profession as defined in section 6100**~~(n)~~(m)** or a Teacher Not New to the Profession as defined in section 6100**~~(o)~~(n); and**

(3) secondary SRSA programs.

~~(m) "Special Settings Middle and High School Level Teacher" means:~~

~~(1) a special education teacher who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting;~~

~~(2) a teacher who is or may be assigned to teach in a secondary alternative program, as specified by California Education Code section 44865, and limited to the following: home teacher; hospital classes; necessary small high schools; continuation schools; alternative schools; opportunity schools; juvenile court schools; county community schools; and community day schools; and~~

~~(3) secondary SRSA programs~~.

(m)~~(n)~~~~(h)~~ "Teacher New to the Profession" means a~~: A~~ teacher is new to the profession if they have graduated from an accredited institution of higher education and received a credential, or began an approved intern program, on or after July 1, 2002.

(n)~~(o)~~~~(i)~~ "Teacher Not New to the Profession" means a~~: A~~ teacher is not new to the profession if they graduated from an accredited institution of higher education and received a credential, or were enrolled in, or had completed, an approved intern program before July 1, 2002.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 6319(a) and 7801(23); Section 44275.4, Education Code; *Elementary and Secondary Act of 1965*, as amended, Title VI, Part B and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance January 16, 2004; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

§ 6104. High Objective Uniform State Standard Evaluation (HOUSSE).

(a) The high objective uniform state standard evaluation shall consist of HOUSSE Part 1 and HOUSSE Part 2 ~~two parts~~. ~~The first~~

(1) HOUSSE Part 1 ~~part~~ shall be a summation of:

(A)~~(i)~~ years of experience teaching in the grade span or subject~~,~~. In no event shall years of experience account for more than half of the total necessary to demonstrate subject matter competency.

(B)~~(ii)~~ core academic coursework in assigned grade span or subject,

(C)~~(iii)~~ in-depth standards aligned professional development, and

(D)~~(iv)~~ service to the profession including but not limited to presenter or consultant of ~~in the relevant~~ core ~~academic~~ content area standards-based professional development; core subject-matter mentor; academic curriculum coach; university supervising master teacher; instructor at a regionally accredited college/university in content area/content methodology; Beginning Teacher Support and Assessment support provider in the core content area; published author on core curriculum area; national/state recognition as “Outstanding Educator” in content area/grade span; leadership role in the core content area on a high school accreditation team; facilitator or leader of a local instructional materials adoption committee in the core subject taught. ~~In no event shall (i) years of experience account for more than half of the total necessary to demonstrate subject matter competency.~~

(2) ~~The second part~~ HOUSSE Part 2 shall consist of direct observation and portfolio assessment in the grade span or subject taught. HOUSSE Part 2 ~~The second part of the high objective uniform state standard evaluation~~ will only be conducted if HOUSSE Part 1 ~~Part One~~ does not identify sufficient experience, coursework, professional development or service to demonstrate subject matter competence.

(c)~~(b)~~ The high objective uniform state standard evaluation observation and portfolio section (Part ~~Two~~ 2) may be conducted at the time and by the means utilized to satisfy Education Code ~~S~~section 44662, except that: (1) subject matter shall be defined as the State Academic Content Standards adopted by the State Board of Education pursuant to Education Code ~~S~~section 60605 for the grades and subjects taught, and

(2) competency shall be demonstrated by satisfactorily meeting standards 3 and 5.1 of the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing pursuant to Education Code ~~S~~section 44225(a). The demonstration of subject matter competence shall include one or more of the following:

(1) Classroom observation

(2) Demonstration of knowledge of the appropriate grade-level and subject State Academic Content Standards, and

(3) Portfolio review of lesson plans and student work for one academic ~~Year~~ period as defined by the teacher setting.

(d)~~(c)~~ Local educational agencies shall conduct the California H~~h~~igh O~~o~~bjective U~~u~~niform S~~s~~tate S~~s~~tandard E~~e~~valuation by completing Form 1 - NCLB Teacher Requirements: Certificate of Compliance (revised November 12, 2003), Form 2 - California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 1 - Assessment of Qualifications and Experience (revised November 12, 2003) and Form 3 - California High Objective Uniform State Standard of Evaluation, CALIFORNIA HOUSSE, Part 2 - Assessment of Current Qualifications through Classroom Observation and/or Portfolio Development (revised November 12, 2003), as appropriate. Forms 1, 2, and 3 are hereby incorporated by reference into this section. Local education agencies may attach completed forms containing the same information as Forms 1, 2 and/or 3 to those forms rather than transcribing that information onto the applicable Form 1, 2, and 3.

(e)~~(d)~~ A teacher's supervising administrator shall be responsible for overseeing the high objective uniform state standard evaluation, and shall consult, if necessary, with a person or persons knowledgeable in the State Academic Content Standards for the grade span or subject for which the teacher is demonstrating subject matter competency. A teacher must demonstrate subject matter competency only once for each grade span or subject taught.

(f)~~(e)~~ If the teacher does not satisfactorily meet standards 3 and 5.1 of the California Standards for the Teaching Profession as part of the NCLB evaluation, then subject matter competency shall be demonstrated through completion of the Peer Assistance and Review Program for Teachers or other individualized professional development plan, pursuant to Education Code section 44664, aimed at assisting the teacher to meet standards 3 and 5.1 of the California Standards for the Teaching Profession.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USD 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-

Regulatory Draft Guidance December 19, 2002; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

§ 6105. Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings.

(a) To use the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings the teacher must:

(1) Have at least a bachelors degree,

(2) Have an Intern Certificate/Credential for no more than three years, or a California State credential,

(3) Have demonstrated compliance in one NCLB Core Academic Subject as defined in the NCLB (20 USC 9101[11]) including elementary multiple subjects.

These eligible teachers must be NCLB compliant in one NCLB core academic subject or elementary multiple subject and have up to three years from date of assignment as an eligible teacher to complete the program.

(b) If a teacher has less than 32 semester non-remedial units but at least 20 total or 10 upper division non-remedial semester units (or quarter unit-equivalent) in a NCLB core academic subject as defined in NCLB section 9101[11], the teacher must complete a Level 2 High Quality Professional Development Course as defined in section 6100(j) in the NCLB core academic subject. In Level 2, the teacher demonstrates a~~n full~~ **more in-depth** understanding of **grades' seven through twelve** ~~each set of~~ Content Standards for California public schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours is required to substantively address subject matter content at this level.

(c) If the teacher has less than 20 total or 10 upper division non-remedial semester units (or quarter unit-equivalent) in an NCLB core academic subject, the teacher must complete a Level 1 High Quality Professional Development Course as defined in section 6100(i) and Level 2 High Quality Professional Development Course as defined in section 6100(j) in the NCLB core academic subject. In Level 1, the teacher demonstrates an understanding of **grades' seven through twelve** ~~each set of~~

Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve. At least 36 hours is required to substantively address subject matter content at Level 1. In addition, teachers must also complete the Level 2 requirements, which include at least an additional 36 hours. Level 1 and 2 courses ~~should~~ **may be designed to** meet **some of the non-university activities** ~~the induction requirements~~ for the Level II Education Specialist Credential program requirements, as defined in the *Standards of Quality and Effectiveness for Education Specialist Credential Programs*, California Commission on Teacher Credentialing, December 1996.

(d) Within the context of the professional development activities, the provider will include multiple assessment methods and competency shall be demonstrated by satisfactory meeting standards 3 and 5.1 of the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing pursuant to Education Code section 44225(a).

(e)~~**(d)**~~ To meet the high quality professional development specifications for the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings, the professional development will be consistent with state-adopted academic content standards, curriculum frameworks and **State Board of Education and locally** adopted texts, and will incorporate the Content Specifications**, including assessments,** as outlined in the document California's Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings.

(f)~~**(e)**~~ Local educational agencies shall conduct the Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings by completing Form 4 – Certificate of Compliance for Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings (revised February 21, 2007). Form 4 is hereby incorporated by reference into this section. Local educational agencies may attach completed form containing the same information as Form 4 rather than transcribing that information onto the applicable Form 4.

(g)~~**(f)**~~ The superintendent of any district/county will attest that the professional development offered for Level 1 and Level 2 meets the subject matter specifications as outlined in section 6105(b), (c)**,** ~~**and**~~ (d) **and (e)**.

(h)~~**(g)**~~ The district/county will make the master list of approved Level 1 and Level 2 Professional Development available to the public upon request.

(i)~~**(h)**~~ The Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings will only be available to Middle or High School Level Teachers in Special Settings as defined in section 6100(l) and ~~**Special Education teachers as defined in section 6111(b)**~~ **is only portable within the settings identified in 6100(l)**.

NOTE: Authority cited: Section 12001, Education Code. Reference: 20 USC 7801(23), 20 USC 6319(a) and Improving Teacher Quality State Grants Title II, Part A Non-Regulatory Draft Guidance December 19, 2002; Individuals with Disabilities Education Act (IDEA) of 2004 Federal Register of August 14, 2006.

7-10-07 [California Department of Education]

FINAL STATEMENT OF REASONS
Subject Matter Verification HOUSSE Process for Secondary Teachers in Special Settings

UPDATE OF INITIAL STATEMENT OF REASONS

The No Child Left Behind (NCLB) Act of 2001, reauthorized the Elementary and Secondary Education Act (ESEA) of 1965, requiring significant changes and sweeping reforms. To meet the key performance goal that all students will be taught by highly qualified teachers, regulations were established to delineate the teacher requirements under NCLB. California's State Plan for No Child Left Behind: Highly Qualified Teacher was adopted by the State Board of Education November 2006 and approved by the Department of Education on December 14, 2006; outlining the states plan to create the Subject Matter Verification HOUSSE Process for Middle and High School Level Teachers in Special Settings (VPSS). This process ensures middle and high school level alternative education and middle and high school level special education teachers will be able to effectively and efficiently meet NCLB High Quality Teacher requirements. Federal flexibility issued March 2004 spells out that teachers of multi-subjects (middle and high school level alternative education and middle and high school level special education) do not need to return to school or take a test in every subject to demonstrate that they meet highly qualified requirements. This flexibility allows states to create an alternative HOUSSE for secondary alternative education and secondary special education teachers.

The SBE approved the VPSS process in January 2007 and the commencement of the rulemaking process for Title V Regulations in May 2007.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MAY 10, 2007 THROUGH JULY 9, 2007

The public comment period began on May 10, 2007 and ended on July 9, 2007. The following comments were received:

Sherry Skelly Griffith, Association of California School Administrators (ACSA), in a letter dated June 28, 2007:

Comment: (3) beginning on line 25 – It states that a teacher with less than 32 semester but at least 20 total or 10 upper division non-remedial semester units in a "core" NCLB subject as defined by NCLB section 9101(11) will be required to complete Level 2. We support this provision however our concern is in the area of History Social Science. NCLB lists the subjects we cover separately (e.g. social science, history, economics) yet our courses may be developed at the secondary level to include all sub-subjects of our History Social Science Framework. For example, a History Social Science class may include economics and not be taught as a separate class.

Therefore we recommend that this section either be amended to reflect that for those teachers teaching history social science ALL units taken in the subjects subsumed in the K-12 Curriculum Framework for History Social Science can be counted towards their unit requirements or that there is a reference to the State HQT Plan that identifies California has having our standards for economics, social science, geography and history subsumed under one curriculum framework.

Response: While we agree with the comments, it would not be appropriate to incorporate this level of detail into the regulations. Therefore, this issue has been clarified in the VPSS document (page 8 and 11), the revised NCLB Teacher Requirements Resource Guide and addressed in the revised Title II, Part A Frequently Asked Questions (FAQs) located on the No Child Left Behind section of the CDE Web site.

Comment: ACSA recommends the same clarification for those teachers required to take Level I & II so that all history social science units are counted. Again we are concerned that teachers will be required to go through Level I & 2 for every single area rather than in one professional development block.

Response: While we agree with the comments, it would not be appropriate to incorporate this level of detail into the regulations. Therefore, this issue has been clarified in the VPSS document (page 8 and 11), the revised NCLB Teacher Requirements Resource Guide and addressed in the revised Title II, Part A Frequently Asked Questions (FAQs) located on the No Child Left Behind section of the CDE Web site.

Comment: Page 5 of 8 beginning on line 9: Line 9 states that Level 1 & 2 courses "should" meet the induction requirements of the Level II Education Specialist Credential program requirements, as defined by the *Standards of Qualify and Effectiveness for Education Specialist Credential Programs,* California Commission on Teacher Credentialing, December, 1996.

While ACSA is not opposed to Level 1 & 2 courses meeting induction requirements for the Specialist Credential we do not believe the CDE or SBE have the authority to require the courses meet CTC induction requirements and we believe this imposes a different level of course certification then is currently expected in the proposed regulations. How will county and district superintendent ensure all courses meet the induction requirements? Will all courses be submitted to CTC for approval?

We recommend either the section be struck from Lines 9 to 13, on Page 5 of 8, or change the word "should" to "may."

Response: The regulations have been amended to reflect the suggested change from "should" to "may".

Level 1 and 2 courses **may be designed to** meet **some of the non-university activities** for the Level II Education Specialist Credential program requirements, as defined in the Standards of Quality and Effectiveness for Education Specialist Credential Programs, California Commission on Teacher Credentialing, December 1996.

Comment: Page 5 of 8 line 27-30. The language should be amended to read:

In Level 2, the teacher demonstrates an advanced level of understanding of each set of Content Standards for California public schools they are expected to teach as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

Rationale: Level 2 should go deeper then Level 1 and it needs to be clear that teachers are expected to focus on the grade level standards they are expected to teach. For example a high school teacher may be teaching students just two grade levels below. They would not need training on all K-6 standards if they are teaching grade 7-12 standards. Another example is a teacher only teaching biology. That should be there focus during the 36 hours.

Response: The regulations have been amended to read:

In Level 2, the teacher demonstrates a **more in-depth** understanding of **grades' seven through twelve** Content Standards for California public schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

Comment: Page 6 of 8, Lines 4-7

Amend to read:

In Level I the teacher demonstrates ~~an~~ a solid understanding of each set of Content Standards for the Public Schools they are expected to teach as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

Rationale – Same as Comment #5 – The limited time does not permit a teacher to be an expert in all standards at all grade levels unless they teach to all K-12 grade levels academically within the classroom. Then, they should be required to cover all K-12 standards. Otherwise we suggest it be directly focused on their grade level teaching range.

Response: The regulations have been amended to read:

In Level 1, the teacher demonstrates an understanding of **grades' seven through twelve** Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

Comment: The HQT State Plan indicated secondary teachers in specialized settings would have three years to complete the special SMV HOUSSE but we don't see the three years in the draft regulations.

We recommend it be included in the regulations teachers have up to three years to complete the process for each subject.

Response: The following language has been added to the regulations:

These eligible teachers must be NCLB compliance in one NCLB core academic subject or elementary multiple subject and have up to three years from date of assignment as an eligible teacher to complete the program.

Comment: We did not find the actual HOUSSE document Certificate of Compliance in the regulations package. We may have missed it?

Response: The Certificate of Compliance for the VPSS is included in the VPSS document that is available on the SBE Web site, January 2007 agenda.

Dale A. Janssen, Executive Director, California Commission on Teacher Credentialing in a letter dated July 5, 2007:

Comment: Sections 6100(l) & (m) appear to be redundant and confusing. An individual may serve in one of the special settings as listed in EC section 44865 while holding the appropriate credential for the assignment such as teaching English and math in a continuation high school with a single subject credential in math with a supplementary subject in English. Subsection (l)(2) requires that the teacher must be assigned on the basis of the EC section so this would not allow the holder of a supplementary authorization or local teaching assignment option to use the option proposed in the regulations.

Since the regulations are only for teachers serving in the specific special setting listed in the two Education Code sections, the proposed combination of the two subsections would define the type of setting appropriate for the teachers to utilize the regulations; consequently a separate definition for the teacher is not necessary. In addition, subsection (m)(2) only allows an individual to serve in a secondary alternative program therefore not allowing for a middle school level assignment.

I suggest the following language:

(l) "Middle and High School Level Teachers in Special Settings" means:

(1) Special education teacher as defined in California Education Code section 56058 who provides primary instruction in a core academic subject to students at the middle or high school level with disabilities regardless of the instructional setting and is either a Teacher New to the Profession as defined in section 6100(n) or a Teacher Not New to the Profession as defined in section 6100(o);

(2) a teacher who is assigned to teach in one of the settings listed in California Education Code section 44865 students at the middle or high school level and is either a Teacher New to the Profession as defined in section 6100(n) or a Teacher Not New to the Profession as defined in section 6100(o); or

(3) a teacher in a SRSA program students at the middle or high school level and is either a Teacher New to the Profession as defined in section 6100(n) or a Teacher Not New to the Profession as defined in section 6100(o).

Subsection (m) could then be deleted since the proposed language above includes the intended definition in subsection (m).

Response: The regulations have been reorganized to better define Middle and High School Level Teachers in Special Settings:

Middle and High School Level Teachers in Special Settings" means:

(1) Middle and high school level special education teacher as defined in California Education Code section 56058 who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting and who is either a Teacher New to the Profession as defined in section 6100(m) or a Teacher Not New to the Profession as defined in section 6100(n);

Section 6100(m) and (m)(1) were deleted.

(2) **A teacher who is or may be assigned to teach in a secondary alternative program, as specified by California Education Code section 44865, and limited to the following: home teacher; hospital classes; necessary small high schools; continuation schools; alternative schools; opportunity schools; juvenile court schools; county community schools; and community day schools;** and who is either a Teacher New to the Profession as defined in section 6100(m) or a Teacher Not New to the Profession as defined in section 6100(n).

Comment: Proposed Section 6105(c) includes the sentence "Level 1 and 2 courses should meet the induction requirements for the Level II Education Specialist Credential program requirements, as defined in the *Standards of Quality and Effectiveness for Education Specialist Credential Programs,* California Commission on Teacher Credentialing, December 1996." The Commission has the sole statutory responsibility for determining program requirements for teacher preparation programs and in particular the content of university Education Specialist Credential programs. Further, the regulations suggest replacing special education pedagogical content currently required in the level II program of the Education Specialist Credential with subject matter content. I recommend that the sentence underlined above be deleted from the proposed regulations.

Response: It is not the intent of these Title V Regulations to set or modify program requirements for teacher preparation programs; however, the Standards of Quality and Effectiveness for Education Specialists Credential Programs includes non-university based requirements. It is the CDE's intent that districts may wish to align those requirements with the requirements contained in the VPSS process.

Ken Burt, Liaison Program Coordinator, Governmental Relations, California Teachers Association in a letter dated July 6, 2007 and in testimony at the public hearing on July 9, 2007:

Comment: The proposed regulations specify that a teacher must complete the Level 1 and/or Level 2 High Quality Professional Development Course for each ESEA/NCLB core academic area. California's credential in Social Science includes subject authorizations for the ESEA/NCLB areas of history, government/civics, geography, and economics**. In order to avoid the possibility that a Social Science credential holder would need to complete a professional development course(s) for each of the four subsumed disciplines, the CDE must clarify its guidance in this area**. To date, the CDE website still contains the following information under its FAQ section: **Since the No Child Left Behind (NCLB) Act of 2001 lists four separate subject areas (civics/government, economics, history, and geography), how can a social science credentialed teacher demonstrate NCLB compliance?**

We are still waiting for further guidance from the United States Department of Education (USDOE) on issues for social science teachers. However, social science credentialed teachers can utilize their college major (or major equivalent) to verify NCLB subject matter compliance, if it matches one of the four NCLB social science areas (e.g., a political science major would be compliant in civics/government). Social science teachers "not new" to the profession can demonstrate subject matter competency through the HOUSSE process to verify NCLB compliance.

With the approval of these regulations, the CDE can no longer wait for additional or new guidance from the USDOE. Instead, the **CDE must use the flexibility defined in the current non-regulatory federal guidance to provide advice to the LEA's that are charged with implementation of the HQT requirements**.

Response: While we agree with the comments, it would not be appropriate to incorporate this level of detail into the regulations. Therefore, this issue has been clarified in the VPSS document (page 8 and 11), the revised NCLB Teacher Requirements Resource Guide and addressed in the revised Title II, Part A FAQs located on the No Child Left Behind section of the CDE Web site.

Comment: In Section 6105(c), lines 18-22, the regulations propose that "Level 1 and 2 courses should meet the induction requirements for the Level II Education Specialist Credential program requirements, as defined in the *Standards of Quality and Effectiveness for Education Specialist Credential Programs*, California Commission on Teacher Credentialing, December 1996". **CTA continues to be concerned with the disparate treatment in requirements for the professional clear credential for**

Education Specialist credential holders. The language of this proposed regulation underscores the problem. Candidates for the Level II Education Specialist credential must take both the university program and the professional development courses, in order to obtain the professional and clear credential and become highly qualified.

However:

- IDEA and current federal regulations grant flexibility for special education teachers to meet the ESEA/NCLB Highly Qualified Teacher requirements using the same pathways and options that are available to general education teachers.

- In 2004, the Governor signed AB 2210 (Liu), a measure that allows single subject and multiple subject preliminary credential holders options for completing their professional clear credential. Specifically, teachers that complete subject matter coursework to meet federal requirements are considered to have met their induction requirements and the Commission on Teacher Credentialing must issue their professional clear credential.

Because single subject and multiple subject candidates can substitute coursework to meet highly qualified requirements for an induction program, appears that special education teachers must also have the option to be granted a Professional Clear credential through completion of subject matter competency coursework, such as that proposed in these regulations. CTA believes that the State Board of Education's intent is to create parity in the flexibility and options available to both general education and special education teachers to meet the federal teacher quality requirements. However, this intent is not fully realized through these regulations and the VPSS process. CTA believes that until the Commission on Teacher Credentialing resolves the disparity in the pathways available for Education Specialist Preliminary Credential holders to attain the Professional Clear credential, neither colleges and universities nor local education agencies will have the appropriate authority or clear guidance to implement the IDEA and NCLB/ESEA requirements for teacher quality with fidelity.

Response: The CDE does acknowledge the CTA's concern with the requirements for the Education Specialists Credential. However, credentialing issues are the sole responsibility of the CTC and the CDE has no jurisdiction to alter these requirements. It is the CDEs intent that districts may wish to align the non-university based activities with the requirements contained in the VPSS process.

Peggy Barber, Legislative Advocate, Los Angeles Unified School District in a letter dated July 9, 2007 and in the testimony of Ed Morris, Director of Instruction, Los Angeles Unified School District, at the public hearing on July 9, 2007:

Comment: The District supports these regulations with the following modification:

§6100(c) Credential means a Preliminary, ~~Professional~~ Clear or Life Credential, or any teaching credential issued under prior statutes, that authorizes a person to teach ~~in California schools~~ pupils attending state-funded K-12 programs in California.

Response: Section 6100(c) is the established definition of credential and does not necessarily relate to the VPSS process or the proposed regulations. Per comments made by Ed Morris following his public testimony, Los Angeles Unified School District withdrew their concern regarding the removal of the word "professional" when referring to a Professional Clear Credential.

Esperanza Ross, Spectrum in a letter dated July 9, 2007:

Comment: Proposed §6100. Definitions. (d) **Elementary, Middle, High School Courses**

Proposed Title 5 Regulations should not impose an additional requirement of LEA determination of course of Study grade level

IDEA Section 602(10)(C)(ii) allows special education teachers teaching exclusively students who are assessed against alternate achievement standards to meet the highly qualified teacher standards that apply to elementary school standards. In the case of instruction above the elementary school level, the teacher must have subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, in order to effectively teach to those standards. Implicit in the states determination that a particular student be assessed against alternate achievement standards is a determination about the level of instruction that should be provided for an individual student and, in turn, the appropriate level of teacher subject matter knowledge.

California's proposed Title 5 Regulations appear to create a two-part test for determining the appropriate level of teacher subject matter knowledge for a particular class. First, a teacher must be teaching exclusively students who are assessed against alternate achievement standards. In addition, California appears to propose an additional requirement that each "LEA shall determine, based on curriculum taught, by each grade or by each course, if appropriate, whether a course is elementary, middle, or high school." This additional requirement, which goes beyond the federal requirement has the potential to reduce federal HQT flexibility for teachers and schools serving students with the most significant cognitive disabilities and may, in many cases, not serve the best interests of the child

If Title 5 regulations require that special education teachers teaching exclusively to students assessed against alternate achievement standards (including middle and high school students) will only be permitted to meet the federal standards applicable to elementary school teachers if, in addition to teaching exclusively students assessed against alternate achievement standards, a additional determination must be made as to the grade level of each course for students with the most significant cognitive disabilities, *that determination should be permitted to be made by either the LEA or the individual student's Individualized Educational Plan (IEP).*

Spectrum Center believes that the definition of curriculum taught is inconsistent with the requirements of federal law [see attached Appendix A: Public Law 108-446, Section 1401 (10)(C)] and federal regulation (see attached Appendix A: Code of Federal Regulations 34 CFR §300.18).

The definition of curriculum taught is ambiguous and inconsistent in implementing federal law and regulations as they relate to public school and nonpublic school special education teachers teaching to pupils with significant cognitive disabilities as it does not state who is responsible for this coursework determination (Assistant Superintendent of Instruction, Local Board, Director of Special Education, or the IEP Team).

This may result in the disregard of important requirements for appropriate courses being taught to pupils with significant disabilities who are assessed by the California Alternate Performance Assessment (CAPA), and could interfere with the administration of appropriate curriculum to these students.

To better align California law and regulations with federal law and regulations we propose the following amendment. That for cases of special education teachers teaching to alternative achieve standards to pupils with significant cognitive disabilities who are also assessed by CAPA that "Elementary, Middle and High School" also means courses that are taught only at the elementary level, unless the pupil's IEP states otherwise.

§ 6100. Definitions. (d)

(d) "Elementary, Middle and High School" means the~~: T~~he local educational agency shall determine, based on curriculum taught, by each grade or by each course, if appropriate, whether a course is elementary, middle or high school. In the case of a special education teacher teaching to alternate achievement standards to pupils with significant cognitive disabilities who are assessed by the California Alternate Performance Assessment, it means courses taught on an elementary level unless the pupil's IEP states that the course is to be taught at the middle or high school level.

Response: Title V Regulations 6100(d) does not allow for Individualized Education Programs (IEP) to determine whether the course is designated elementary, middle, or high school. Currently, the local educational agency makes this determination for the purposes of NCLB teacher quality requirements.

Comment: § 6100. Definitions. (m) "Middle and High School Level Teachers in Special Settings"

Spectrum Center comments to the State Board of Education regarding proposed Title 5 Regulations for the HOUSSE Process for Middle and High School Level Teachers in Special Settings:

To Ensure Consistency with Existing State and Federal Law, Proposed Title 5 Regulations Should Specify that Flexibility Allowed Under IDEA for Special Education Teachers of Students with the Most Significant Cognitive Disabilities is Applicable in the Nonpublic School Setting

State certified nonpublic schools in California serve the California students with the most significant cognitive disabilities, pursuant to contractual arrangements with public school districts.

Federal regulations promulgated by the United States Department of Education (71 Fed. Reg. 46540 and following (Aug. 14 2006)) provide that the "highly qualified"(HQT) requirement for special education teachers is applicable *only* to special education teachers employed to teach in public schools and that a state education agency is *not* required to mandate that any individuals with special needs who are referred to or otherwise placed in a non public school by a state agency are taught by special education teachers that meet the federal "highly qualified" teacher requirements (34 C.F.R. 300.18, 300.146, and 300.156; 71 Fed. Reg. 46540, 46758-46759, 46769, and 46772 (Aug. 14, 2006)). California law, however, places additional requirements on special education teachers in non public schools by requiring that they meet federal "highly qualified" teacher requirements.

20 United States Code 1401(10)(c) describes flexibility for special education teachers who teach to alternative achievement standards. The regulations promulgated under section 1111(b)(1) of the ESEA permit States to use alternate achievement standards to evaluate the performance of students with the most significant cognitive disabilities. Section 602(10)(C)(ii) of the IDEA, in turn, allows special education teachers teaching exclusively children who are assessed against alternate achievement standards to meet the highly qualified teacher standards that apply to elementary school teachers.

Because California has imposed HQT requirements in the non public school setting, flexibility permitted under federal law and codified by California should be explicitly made applicable in the nonpublic school setting.

Accordingly, Spectrum Center recommends that definition of "Middle and High School Level Teachers in Special Settings" be amended to include state certified nonpublic schools as a "Special Setting" within the meaning of the regulations.

Spectrum Center believes that this definition must include state certified nonpublic schools as a "Special Setting" as nonpublic schools special education teachers are teaching in a "Special Setting." With regard to the HOUSSE, we believe the process needs to be identified as consistent with the implementation of this process across all instructional settings in California schools.

Similarly to home teacher, hospital classes, necessary small high schools, continuation schools, alternative schools, opportunity schools, juvenile court schools, county community schools, and community day schools, and secondary SRSA programs, nonpublic schools serve students that school districts believe to be unique and who have specific needs that require a "special setting."

Certified nonpublic schools serve students who exhibit behaviors such that it is not safe for them to be educated in the same environment as typically developing peers and most have severe developmental delays (*i.e.,* cognitive levels significantly below their chronological age). In addition, Spectrum Center serves some over 500 students referred to its 8 campuses from over 60 public school districts in the San Francisco Bay area. Of Spectrum's 500+ students, 83% demonstrate assaultive behavior, 68% engaged in property destruction, 41% exhibit self-injurious behavior, and 38% have toileting problems.

Furthermore, those special education teachers in public and nonpublic schools who are teaching to alternate achievement standards to pupils with significant cognitive disabilities must be allowed to address the HOUSSE process in their special classroom setting.

We believe this to be the intent of the federal law and regulation previously cited above [see attached **Appendix A: Public Law 108-446, Section 1401 (10)(C)]** and federal regulation (see attached **Appendix A: Code of Federal Regulations 34 CFR §300.18**). Without these suggested revisions to **§ 6100. Definitions.** (l), the section is ambiguous and inconsistent in implementing federal law and regulations as they relate to public school and nonpublic school special education teachers teaching to pupils with significant cognitive disabilities, and provides an undue administrative burden upon state certified nonpublic schools.

§ 6100. Definitions.

(m) “Special Settings Middle and High School Level Teacher” means:
(1) a special education teacher who provides primary instruction in a core academic subject to students with disabilities regardless of the instructional setting;
(2) a teacher who is or may be assigned to teach in a secondary alternative program, as specified by California Education Code section 44865, and limited to the following: home teacher; hospital classes; necessary small high schools; continuation schools; alternative schools; opportunity schools; juvenile court schools; county community schools; and community day schools; and
(3) secondary SRSA programs.
<u>(4) state certified nonpublic, nonsectarian schools.</u>
<u>(5) a special education teacher at the middle and high school level teaching to pupils with significant cognitive disabilities who are assessed by the California Alternate Performance Assessment and who meet the requirements of IDEA, 20 United States Code 1401(10)(c) and CFR 34, §300.18(c)(2) as it applies to an elementary school teacher.</u>

Response: Private schools are not governed by NCLB teacher quality requirements. However, like other private schools, nonpublic schools should have access to high quality professional development activities through their contracting local educational agency. These regulations do not apply to special education teachers who teach elementary curriculum, regardless of the setting.

Based on the comments received during the initial 45-day public comment period, eleven amendments to the originally proposed draft regulations were proposed:

1. Amend section 6100(i) to define Level 1 Professional Development, as focused on student content standards grades' seven through twelve.
*"Level 1 Professional Development" means training that will provide a teacher the requisite understanding of **grades' seven through twelve** Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.*

2. Amend section 6100(j) to define Level 2 Professional Development as providing a more in-depth understanding of the student content standards in grades seven through twelve than was provided in Level 1.

"Level 2 Professional Development" means training that will provide a teacher a more in-depth understanding than was provided in level 1 of the student content standards for grades seven through twelve in the student Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

3. Amend section 6100(l) to clarify the definition for Middle and High School Level Teachers in Special Settings. The change makes clear that any secondary teacher assigned to teacher in a program covered under *EC* section 44865 may use the VPSS process as long as they meet all the requirements. Subsequently, 6100(m) and 6100(m)(1)(2)(3) were deleted.

4. Due to deletions 6100(n) is now 6100(m) with no content changes.

5. Due to deletions 6100(o) is now 6100(n) with no content changes.

6. The following clarification was added to 6105(a)(3) to define how long eligible teachers had to complete the process.

These eligible teachers must be NCLB compliant in one NCLB core academic subject or elementary multiple subject and have up to three years from date of assignment as an eligible teacher to complete the program.

7. The following clarification was added to section 6105(b) and 6105(c) to reflect the changes in 6100(i) and 6100(j).

In Level 1, the teacher demonstrates an understanding of **grades' seven through twelve** Content Standards for California Public Schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

In Level 2, the teacher demonstrates a **more in-depth** understanding of **grades' seven through twelve** Content Standards for California public schools as outlined in the corresponding Framework for California Public Schools: Kindergarten through Grade Twelve.

8. Amend 6105(c) to clarify that program developers may want to consider aligning VPSS program requirements with the non-university activities related to the Level II Education Specialists Credential but are not required to do so.

Level 1 and 2 courses **may be designed to** meet **some of the non-university activities** for the Level II Education Specialist Credential program requirements, as defined in the Standards of Quality and Effectiveness for Education Specialist Credential Programs, California Commission on Teacher Credentialing, December 1996.

9. Added section 6105(d) to define teacher assessment requirements.

Within the context of the professional development, the provider will include multiple assessment methods and competency shall be demonstrated by satisfactory meeting standards 3 and 5.1 of the California Standards for the Teaching Profession adopted by the Commission on Teacher Credentialing pursuant to Education Code section 44225(a).

10. Changes to 6105(g), formally 6105(f), were made to incorporate the addition of 6105(d) which relates to teacher assessment.

11. Section 6105(i) formally 6105(h) was modified to clarify portability:
The Subject Matter Verification HOUSSE for Middle and High School Level Teachers in Special Settings will only be available to Middle or High School Level Teachers in Special Settings as defined in section 6100(l) and-is only portable within the settings identified in section 6100(l).

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 as and less burdensome to affected private persons than the proposed regulations.

LOCAL MANDATE DETERMINATION

The proposed regulations do not impose any mandate on local agencies or school districts.

ITEM #38

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Request for Approval of El Dorado County Office of Education Local Plan	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the El Dorado County Office of Education (EDCOE) local plan (Attachment 1) to initiate a multiple charter school local educational agency (LEA) (Attachment 2) Special Education Local Plan Area (SELPA) pursuant to California *Education Code* (*EC*) Section 56195 with the following conditions applicable for three years:

- through quarterly meetings and onsite visits, the CDE and the EDCOE will cooperatively monitor the special education programs provided through the participating charter schools ensuring students with disabilities receive a free appropriate public education (FAPE)

- the CDE and the EDCOE will collect data that will allow evaluation of SELPA efforts to ensure students with disabilities receive FAPE in member charter schools

- in order for the SBE to consider the viability of continuing the SELPA and after three years, a report will be made to the SBE regarding the effectiveness of the multiple charter school LEA SELPA

If the SBE, EDCOE, or individual charter school LEA members choose to dissolve the multiple charter school LEA SELPA, the members may return to their originating SELPA, or seek membership in another SELPA. The Superintendent of Public Instruction (SPI) may authorize additional charter school members upon receipt of a revised local plan. The SPI will notify the SBE of any change in SELPA membership.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

As required by *EC* Section 56100, each SELPA submits a local plan for review and approval by the SBE. In January 2000, pursuant to its statutory authority, the SBE delegated approval of SELPA local plans to the SPI. However, at such times when a proposed local plan exceeds the scope of that delegation, the SPI refers the local plan to the SBE for its review and approval.

In June 2003, the SPI referred to the SBE a request to reconfigure the Tri-County SELPA to form three single county SELPAs, as they did not meet the 1983 SBE policy requiring minimum student populations and maximum geographic sizes. Although the proposed plans did not meet the population standards, the SBE approved the plans. For the same reason, the SPI referred to the SBE in March 2007 a request to form a single district SELPA in San Ramon Valley Unified School District. The SBE gave its consent.

SUMMARY OF KEY ISSUES

To assist the CDE examine alternatives to effectively serve students with disabilities enrolled in charter schools, the EDCOE currently participates as a pilot to examine the effectiveness of serving out-of-geographic charter school LEAs. As part of the study, the EDCOE serves ten out-of-geographic region charter schools under its approved local plan. However, serving those charter schools under the current SELPA caused financial hardship for the non-charter school LEA members. Not all charter school average daily attendance (i.e., ADA) in the first year was funded as the non-charter school members were declining in enrollment. In addition, growth in the enrollment of current members and future members of the SELPA remains unknown. The proposed solution involves forming a new multidistrict SELPA that serves out-of-geographic charter school LEAs.

EC Section 56195.1(b) and (f) authorize multiple charter schools to form a SELPA. However, the SPI referred the EDCOE local plan to the SBE because the SBE 1983 policy does not provide a standard for a SELPA that lacks a continuous border, as is the case with the EDCOE local plan.

The CDE review of the proposed local plan which purports to provide FAPE to students with disabilities enrolled in each charter school LEA revealed the proposed local plan addressed all statutory requirements (*EC* sections 56205-56206) (Attachment 3).

In addition to meeting all local plan requirements and pursuant to *EC* Section 56195.3(b), each member changing affiliation to the proposed SELPA notified both SELPAs (i.e., the sending SELPA and EDCOE SELPA) at least one year prior to changing from one SELPA to another to ensure special education funds are accurately distributed. When a charter school applies to affiliate with a SELPA, the provisions of *EC* Section 47641(a) governs its application for participation as a local educational agency member (LEA) within the SELPA. Accordingly, a charter school deemed an LEA may participate in a SELPA, consistent with *EC* Section 56195.1. Each change in SELPA affiliation is a material change in the charter terms and was approved by each

SUMMARY OF KEY ISSUES (Cont.)

charter authorizer pursuant to *EC* Section 47607. Respective county offices of education approved the proposed local plan (*EC* Section 56140(b)).

FISCAL ANALYSIS (AS APPROPRIATE)

Integral to the proposed plan, the reason for a charter school to leave its geographic SELPA may not be primarily fiscal. The reasons include increasing access to appropriate special education services and implementing quality programs for students with disabilities. Should the SBE approve the EDCOE application, the geographic SELPAs may potentially lose an estimated $700,000 of anticipated special education funding. However, each affected SELPA concurred with transfer of the charter schools to the proposed SELPA. Several of the proposed charter school LEA members are newly authorized and currently not a member of a SELPA.

ATTACHMENT(S)

Attachment 1: Original Local Plan Submission (229 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 2: El Dorado County Charter Project Rev 4-10-07 (3 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 3: Elements of the Local Plan (8 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

ITEM #39

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Request for Approval of Lodi Area Special Education Region Local Plan	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) conditionally approve the Lodi Area Special Education Region (LASER) local plan (Attachment 1) to incorporate out-of-geographic charter school local educational agencies (LEAs) into its currently approved local plan pursuant to California *Education Code* (*EC*) Section 56195. The CDE and LASER will collect data that will allow evaluation of Special Education Local Plan Area (SELPA) efforts to ensure students with disabilities receive free appropriate public education in member charter schools. In order for the SBE to consider the viability of continuing the charter schools' affiliation with the SELPA and after three years, a report will be made to the SBE. The Superintendent of Public Instruction (SPI) may authorize additional charter school members upon receipt of a revised local plan. The SPI will notify the SBE of any change in SELPA membership.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

As required by *EC* Section 56100, each SELPA submits a local plan for review and approval by the SBE. In January 2000, pursuant to its statutory authority, the SBE delegated approval of SELPA local plans to the SPI. However, at such times when a proposed local plan exceeds the scope of that delegation, the SPI refers the local plan to the SBE for its review and approval. In June 2003, the SPI referred to the SBE a request to reconfigure the Tri-County SELPA to form three single county SELPAs, as they did not meet the 1983 SBE policy requiring minimum student populations and maximum geographic sizes. Although the proposed plans did not meet the population standards, the SBE approved the plans. For the same reason, the SPI referred to the SBE in March 2007 a request to form a single district SELPA in San Ramon Valley Unified School District. The SBE gave its consent.

SUMMARY OF KEY ISSUES

LASER cooperated with the CDE to facilitate development of alternatives to effectively serve students with disabilities enrolled in out-of-geographic region charter school LEAs. As part of the study, LASER serves two out-of-geographic region charter schools

SUMMARY OF KEY ISSUES (cont.)

(Attachment 2) under its approved local plan. LASER and the charter school LEA members wish to continue this relationship. The SPI referred the LASER local plan to the SBE because the SBE 1983 policy does not provide a standard for a SELPA that lacks a continuous border, as is the case with LASER local plan.

CDE review of the proposed local plan indicates free appropriate public education will be offered to students with disabilities enrolled in each charter school LEA revealed, and that the local plan addressed all statutory requirements (*EC* sections 56205-56206) (Attachment 3).

In addition to meeting all local plan requirements and pursuant to *EC* Section 56195.3(b), the two charter school LEA members changing affiliation to the LASER notified both SELPAs (i.e., the sending SELPA and LASER SELPA) at least one year prior to changing from one SELPA to another ensuring that special education funds were accurately distributed. The provisions of *EC* Section 47641(a) govern application for participation as a local educational agency member LEA within the SELPA. Accordingly, a charter school deemed an LEA may participate in a SELPA, consistent with *EC* Section 56195.1. Each change in SELPA affiliation is a material change in the charter terms and was approved by each charter authorizer pursuant to *EC* Section 47607. Respective county offices of education approved the proposed local plan (*EC* Section 56140(b)).

FISCAL ANALYSIS (AS APPROPRIATE)

Should the SBE approve the LASER application, the geographic SELPAs will lose an estimated $400,000 of anticipated special education funding. However, the affected SELPA concurred with transfer of the charter schools to the LASER.

ATTACHMENT(S)

Attachment 1: 2003 LASER Local Plan with 2006 Revisions (54 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 2: Listing of Proposed LASER Charter School LEA Members (1 page)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 3: Elements of the Local Plan (7 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

ITEM #40

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
Request for Approval of Desert Mountain Special Education Local Plan	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) conditionally approve the Desert Mountain Special Education Local Plan Area (DMSELPA) local plan (Attachment 1) to incorporate 9 out-of-geographic Charter Local Education Agencies (LEAs) (Attachment 2), including High Tech High, High Tech International, High Tech High Media Arts, High Tech Middle, High Tech Middle Media Arts, Explorer Elementary, High Tech High Bayshore, and the Statewide Benefit Charter Schools (two), in their local SELPA local plan pursuant to California *Education Code* (*EC*) Section 56195 with the following conditions:

- In cooperation with the CDE, amend (1) policies and procedures, and (2) assurances and governance structure for the participating LEA member local board of trustees and the governing board approval by September 2007, and December 2007, respectively, to reflect the implementation of the local plan with charter LEAs in which students with disabilities are receiving specialized instruction and services that are geographically outside of the DMSELPA boundaries.

- Through monthly meetings and onsite visits, the CDE and the DMSELPA will cooperatively monitor the special education programs provided through the participating charter schools ensuring students with disabilities receive a free appropriate public education (FAPE)

- The CDE and the DMSELPA will collect data that will allow evaluation of SELPA efforts to ensure students with disabilities receive FAPE in the out-of geographic SELPA member charter LEAs.

- The SELPA out-of-geographic Charter LEA membership will be limited to the identified 9 members (Attachment 2) in the proposed local plan

- In order for the SBE to consider the viability of continuing the DMSELPA local plan that includes out-of-geographic Charter LEAs, and after three years, a report

RECOMMENDATION (cont.)

will be made to the SBE regarding the effectiveness of the DMSELPA and the out-of-geographic Charter LEA members in the DMSELPA.

If the SBE, DMCOE, or individual charter school LEA members choose to dissolve the multiple charter school LEA SELPA, the members may return to their originating SELPA, or seek membership in another SELPA. The Superintendent of Public Instruction (SPI) may authorize additional charter school members upon receipt of a revised local plan. The SPI will notify the SBE of any change in SELPA membership.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

As required by *EC* Section 56100, each SELPA submits a local plan for review and approval by the SBE. In January 2000, pursuant to its statutory authority, the SBE delegated approval of SELPA local plans to the SPI. However, at such times when a proposed local plan exceeds the scope of that delegation, the SPI refers the local plan to the SBE for its review and approval.

In June 2003, the SPI referred to the SBE a request to reconfigure the Tri-County SELPA to form three single county SELPAs, as they did not meet the 1983 SBE policy requiring minimum student populations and maximum geographic sizes. Although the proposed plans did not meet the population standards, the SBE approved the plans. For the same reason, the SPI referred to the SBE in March 2007 a request to form a single district SELPA in San Ramon Valley Unified School District. The SBE gave its consent.

SUMMARY OF KEY ISSUES

The DMSELPA agrees to cooperate with the CDE to facilitate development of this unique alternative that will effectively serve students with disabilities enrolled in out-of-geographic DMSELPA region charter school LEAs. The DMSELPA, as part of the study, will serve 9 out-of-geographic region charter schools (Attachment 2). The DMSELPA was approved by the SBE to be the SELPA for the High Tech High Statewide Benefit Charter that will have two separate campuses in San Diego County (Chula Vista and San Marcos). The out-of-geographic Charter LEAs have expressed their wish to be a member of the DMSELPA. Due to the nature of these charter schools, the students do not **reside** within a specific geographic district within the DMSELPA geographic boundaries. The SPI referred the DMSELPA local plan to the SBE because the SBE 1983 policy does not provide a standard for a SELPA that lacks a continuous border, as is the case with the DMSELPA local plan.

The CDE review of the proposed local plan indicates FAPE will be offered to students with disabilities enrolled in each charter school LEA including each charter school LEA that is outside of the geographic boundaries of the DMSELPA. The local plan review further addresses all statutory requirements (*EC* sections 56205-56206) (Attachment 3). However, current policies and procedures, assurances and the governance section of

SUMMARY OF KEY ISSUES (cont.)

the Local Plan need to reflect, in writing, how the local plan and accompanying special education laws and regulations are implemented with the 9 out-of-geographic region charter school LEAs.

The provisions of *EC* Section 47641(a) govern application for participation as a LEA within the SELPA. Accordingly, a charter school deemed an LEA may participate in a SELPA, consistent with *EC* Section 56195.1.

The County Superintendent of Schools has certified the local plan. The Governing Board of the DMSELPA has approved the local plan as submitted to CDE and the Community Advisory Committee has had the opportunity to review the plan as required in law.

FISCAL ANALYSIS (AS APPROPRIATE)

Should the SBE approve the DMSELPA application, the geographic SELPA will lose an estimated $2,516,642.70 of anticipated special education funding. However, the affected SELPA concurred with the transfer of the charter schools LEAs to the DMSELPA.

ATTACHMENT(S)

Attachment 1: Desert Mountain Special Education Local Plan (496 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 2: DM SELPA Charter Project FY 2006-07 (3 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

Attachment 3: Elements of the Local Plan (6 pages)
(This attachment is not available for viewing on the Internet. A printed copy is available for viewing in the State Board of Education office.)

ITEM #~~#41~~

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

SUBJECT	
2005 History–Social Science: Guru Nanak picture in the State Board-Adopted History–Social Science Program, *Oxford History-Social Science Program for California*	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) will report~~s that~~ on the follow-up to the State Board of Education (SBE) action regarding the picture of Guru Nanak ~~was met by Oxford University Press~~. ~~in the following ways:~~

~~All future editions of the text will be reprinted without the picture of Guru Nanak;~~

~~All existing stocks of the book that have the picture included will not be sold to California public schools; and~~

~~All copies of the book that have already been sold will be replaced by the distributor of *Oxford History-Social Science Program for California* with new editions without the picture of Guru Nanak.~~

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SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

November 9, 2005: The SBE took action to adopt ten basic instructional materials programs in history–social science, pending approval of final edits and corrections in the instructional materials.

March 8, 2006: The SBE took action to approve a final list of edits and corrections for the adopted programs in the 2005 History–Social Science Primary Adoption.

March 8, 2007: The SBE took action to approve the request from Oxford University Press to remove the picture of Guru Nanak from page 95 of *An Age of Voyages, 1350-1600*, in all future printings of the book. In addition, the SBE directed the publisher to alter the image in the already printed text by covering the image with a pasteover and recommended that the publisher place on the pasteover appropriate text (or an appropriate image) developed by SBE staff and CDE staff in consultation with the publisher.

SUMMARY OF KEY ISSUES

Subsequent to the SBE action on the 2005 History–Social Science Primary Adoption on November 9, 2005, the CDE received notice from members of the Sikh community that they had concerns with the depiction of Guru Nanak, founder of the Sikh religion, in the SBE-adopted textbook *An Age of Voyages, 1350-1600*, published by Oxford University Press. Specifically, their complaint was that the image depicted Guru Nanak in a crown, rather than a turban.

SUMMARY OF KEY ISSUES (Cont.)

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The current illustration of Guru Nanak appears on page 95 in Oxford's *An Age of Voyages, 1350-1600* and is a copy of a portrait that hangs in the Victoria and Albert museum in London, Great Britain. Guru Nanak lived from1469 to 1538 and the original portrait was done 300 years after his death. While the picture is historically significant, it has been argued by some in the Sikh community that it is not reflective of current practices and beliefs.

Oxford University Press agreed to replace the illustration with an alternative picture from the eighteenth century and a new caption stating the period of the painting and which museum the picture came from. The CDE consulted with Pashaura Singh, Professor, Department of Religious Studies, University of California, Riverside. Professor Singh confirmed that the picture is one of the earliest surviving portraits of Guru Nanak but that it is from the eighteenth century, more than 200 years after Guru Nanak's death. However, the Sikh representatives were not satisfied with the alternative as it did not match the representation used by some Sikhs today.

Oxford University Press then suggested removing both the picture and its caption in future print runs of this textbook. The SBE approved this request at its March 2007 meeting, but it also acted to require the publisher to alter the image in the already printed textbooks by covering the image with a pasteover. The SBE recommended that the publisher place on the pasteover appropriate text (or an appropriate image) developed by SBE staff and CDE staff in consultation with the publisher.

~~In order to comply with the SBE action, the publisher has offered to remove the picture from future editions, replace unsold stock with the revised edition, and allow its distributor, Holt, Rinehart and Winston, to replace all copies of the book that have been sold to date with the revised edition. Therefore, a pasteover is not necessary.~~

FISCAL ANALYSIS (AS APPROPRIATE)

According to Oxford University Press, a total of 520 copies of the textbook had been sold when this issue came before the SBE in March~~y~~. ~~The publisher has offered to replace those books at no cost to the districts that purchased them.~~

ATTACHMENT(S)

~~None.~~Attachment 1: Report on SBE action on Guru Nanak will be provided as an item ~~addendum.~~
addendum.

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State of California **Department of Education**

ITEM ADDENDUM

DATE: July 2, 2007

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Anthony Monreal, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 41

SUBJECT: 2005 History–Social Science: Guru Nanak Picture in the State Board-Adopted History–Social Science Program, *Oxford History-Social Science Program for California*

The Curriculum Frameworks and Instructional Resources Division (CFIR) contacted Oxford University Press (OUP) regarding the State Board of Education's (SBE) March 9, 2007 action concerning the removal of the picture of Guru Nanak from page 95 of *An Age of Voyages, 1350-1600*. In response to the SBE's action, OUP has agreed to do the following:

- Reprint all future editions of the textbook without the picture of Guru Nanak.
- Freeze all existing stock of the textbook that include the picture of Guru Nanak and replace with the revised version.
- Replace all copies of the textbook that have already been sold with new editions that have the picture of Guru Nanak removed.
- Have its distributor, Holt, Rinehart, and Winston, deliver the new textbooks to the 16 school districts that purchased the textbook that included the picture of Guru Nanak. Delivery to take place prior to the beginning of the 2007-08 school year.

The California Department of Education sent a letter to OUP (copy attached) confirming the above actions to be taken by OUP and its distributor. In response to this letter, OUP has confirmed that new textbooks are currently being printed to replace the 520 copies.

No further action by the SBE is necessary.

Attachment 1: Letter to Oxford University Press regarding SBE's action on Guru Nanak.

JACK O'CONNELL
State Superintendent of
Public Instruction
PHONE: (916) 319-0800

CALIFORNIA
DEPARTMENT OF
EDUCATION

1430 N STREET
SACRAMENTO, CA
95814-5901

July 2, 2007

Casper Grathwohl
Oxford University Press
198 Madison Avenue
New York, NY 10016

Dear Mr. Grathwohl:

I am writing in regard to Oxford University Press' (OUP) willingness to support the action taken by the State Board of Education (SBE) at its March 8, 2007 meeting. To that end, OUP has agreed to eliminate the picture of Guru Nanak in future editions of *An Age of Voyages, 1350-1600* ("revised version"), freeze and replace all current stock of the textbook with the revised version, and allow OUP's distributor, Holt, Rinehart, and Winston (HRW), to replace all existing copies currently used in California schools with the revised version. To accomplish the last of these tasks HRW will contact the sixteen districts that purchased *An Age of Voyages* and arrange for the textbooks to be replaced with the revised version as soon as possible, but in no event, later than the beginning of the 2007-08 school year.

It should be noted that OUP correctly followed the textbook adoption procedures throughout the adoption process. The SBE appreciates OUP's participation in the adoption process and its willingness to resolve this post-adoption matter. I will report to the SBE at its July meeting that OUP appropriately addressed the SBE's action in order to maintain the textbook's balance of academic integrity and religious sensitivity.

Sincerely,

Thomas Adams, Executive Director
Curriculum Frameworks and Instructional Resources Division

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Santa Clara Unified School District** (USD) to waive *Education Code (EC)* Section 52522(b) to increase from 5 percent to 7 percent the proportion of their adult education state block entitlement that may be used to implement approved Adult Education Innovation and Alternative Instructional Delivery Programs. Waiver Number: 51-3-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

That *EC* Section 33051(c) will not apply, and the district will be required to provide an evaluation before renewal.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Waivers of this type have been approved by the State Board Of Education (SBE) since 2001, under SBE Waiver Policy 02-01, Adult Education Innovation and Alternative Instruction Delivery Program: Percentage of Block Entitlement.

SUMMARY OF KEY ISSUES

In 1993 the California Legislature passed *EC* Section 52522 permitting the Superintendent of Public Instruction to approve adult school plans to spend up to five percent of their block entitlement on innovation and alternative instructional delivery.

Application requirements include reimbursement and accountability worksheets for all courses. Courses must be approved by the California Department of Education (CDE) per *EC* Section 52515, and certification of an approved attendance accountability system is required. All ten mandated adult education program areas are eligible; however the majority of approved applications offer coursework in Elementary Basic Skills, English as a Second Language, Citizenship, and Parent Education.

Increased access to instruction for hard-to-serve adults is a basic tenet of adult education innovation and alternative instructional delivery programs. Checking out video and print materials, a decidedly low-cost, low-tech approach, has been the most prevalent intervention, however approved alternative instructional delivery modes also include live cable broadcast; audio check out, text, workbook and study packet assignments; and computer-based delivery.
The SBE adopted waiver guidelines in March 2002 for local educational agencies

(LEAs) that apply for a waiver to increase the percentage of their state block entitlement expendable for innovation and alternative instructional delivery from five percent to an amount not greater than seven percent.

Santa Clara USD has submitted all items requested in the SBE waiver guidelines and the review of documentation supports waiver approval, however the CDE recommends approval for one day less than two years so that *EC* 33051(c) will not apply and the district will be required to do an evaluation of their Innovation program before a renewal is granted.

The CDE recommends approval.

WAIVER GUIDELINES

The waiver request includes the following:

1. Verification that all other requirements of the Adult Education Program in the LEA are in current statutory compliance.

   ☒ Approval ☐ Denial

   Santa Clara USD verification has been submitted and is on file. Santa Clara USD last participated in the Comprehensive Compliance Review (CCR) process in April, 2005. All areas of the school were found compliant except the ratio of school size to administrative staff. Budget restrictions have presented the school from hiring additional administrators. However, the distance learning program has increased staff.

2. Verification that the ratio of average daily attendance for adult education innovation and alternative instructional delivery of pupils to certificated employees responsible for adult education innovation and alternative instructional delivery shall not exceed the equivalent ratio of pupils to certificated employees for all other adult education programs operated by the district.

   ☒ Approval ☐ Denial

   Santa Clara USD verification has been submitted and is on file. The student teacher ratio is one teacher to every 27 pupils.

3. Verification that the district's prior three-year history for annual apportionment indicates growth, stability, or not more than a 4.5 percent decline per year. Changes in the number of students with limited access that may support overall ADA loss in the regular adult education state apportionment program must be documented.

   ☒ Approval ☐ Denial

   Santa Clara USD's verification has been submitted and actual numbers are on

file. Verification indicates stability during the prior three-year history for annual apportionment.

4. A request for an increase from **five percent to an amount not greater than seven percent** of the amount of the adult block entitlement that may be used for innovation and alternative instructional delivery programs to include a description of the program and a rational for change. Information and documentation in all of the following three areas is required for consideration of the waiver:

   - Increase In Number of Students with Limited Access to Traditional Education Options

   Santa Clara USD verification of increase in the student population with limited access to traditional education options has been submitted and is on file. This program is targeted to the local Vietnamese population in San Jose. San Jose has the largest city population of Vietnamese outside of Vietnam. The program is unique in that it is a collaboration between Santa Clara USD and Language Network, a community based organization and delivers ESL instruction over the radio 5 nights a week to a large Vietnamese audience.

   According to the Santa Clara County Immigrant website, traditional adult education classes are not included in the top four ways that Vietnamese adult prefer to learn English. "To learn English faster, 63% of respondents endorsed TV, having English-speaking friends (47%), having better weekday schedules (32%), and learning through audiocassette tapes (35%)."

   This data seems to suggest that for whatever reason, the majority of local Vietnamese adults have not taken and will not take advantage of traditional ESL classes.

   ☒ Approval ☐ Denial

   - Increase In Program Capacity

   Santa Clara USD verification of increased program capacity has been submitted and is on file. Program expansion increasing curriculum delivery, access to curriculum, and additional student support is documented.

   ☒ Approval ☐ Denial

   - Improved Student Assessment Documentation

   Santa Clara USD verification of improved student assessment documentation has been submitted and is on file. Santa Clara Adult School administers the Comprehensive Adult Student Assessment System (CASAS) testing to all students participating in this unique Broadcast distant learning program.

   ☒ Approval ☐ Denial

Authority for Waiver: *EC* Section 33050

Period of request: November 01, 2006 through June 30, 2007, *EC* 33051(c) will not apply.

Local board approval date(s): March 22, 2007

Public hearing held on date(s): March 22, 2007

Bargaining unit(s) consulted on date(s):
This waiver is for an adult education facility, not a K12 school. The school district has a bargaining unit that serves the K12 schools, but not the adult education facility. No union members are involved in any way with this project.

Name of bargaining unit/representative(s) consulted: See note above

Position of bargaining unit(s) (choose only one): See note above
☐ Neutral ☐ Support ☐ Oppose

Public hearing advertised by (choose one or more):
☐ posting in the newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: High Tech Academy Board

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 26, 2006

FISCAL ANALYSIS (AS APPROPRIATE)

Approval adjusts the percentage within the district's fixed adult education block entitlement. No additional funding would result from approval of this waiver request.

ATTACHMENTS

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Butte Valley Unified School District** for a renewal waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270). Waiver Number: Fed-2-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) approved a revision to State Board of Education Waiver Policy 01-01, Carl D. Perkins Career and Technology Education Improvement Act: Consortium Requirement for Minimum Allocation on November 9, 2006. This waiver meets that new criteria, so is coming to the SBE on the Consent Calendar.

SUMMARY OF KEY ISSUES

Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270) requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Act permits states to waive the consortium agreement.

The SBE Waiver Policy indicates that:

The LEA is:

- A district or agency in a rural, sparsely populated area (as defined by National Center for Education Statistics (NCES) Locale codes 33, 41, 42, and 43, OR
- A public charter school operating secondary career technical education programs (as evidenced by a State Board of Education issued charter number), AND

The LEA:

- Demonstrates that it is unable to enter into a consortium for purposes of providing activities under this section (as evidenced by a description from the LEA or CDE of efforts to enter into a consortium).

CDE staff contacted the Butte Valley Unified School District and verified that the LEA received its first consortium waiver in the 1991-92 program year and that the LEA meets the waiver criteria. The district is in NCES Locale Code #43 which is defined as rural, remote.

The Butte Valley Unified School District is located ten miles from the California Oregon border in the northeast portion of Siskiyou County and includes the city of Dorris, California. Dorris is 23 miles south of Klamath Falls, Oregon and 117 miles from Redding, California. Therefore there are no existing consortiums in this area that the district could join.

In addition, this LEAs isolated location makes it impractical to form a consortium with any other school district.

The department recommends approval.

Authority for Waiver: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Section 131(c)(2)

Period of request: July 1, 2007, through June 30, 2011

Local board approval date(s): March 21, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable the Butte Valley Unified School District to receive its annual Perkins funds (estimated to be $3,347.00) without having to participate in a consortium. The waiver has no significant effect on the distribution of Perkins funds statewide.

BACKGROUND INFORMATION

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Klamath-Trinity Joint Unified School District** for a renewal waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270). Waiver Number: Fed-3-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) approved a revision to State Board of Education Waiver Policy 01-01, Carl D. Perkins Career and Technology Education Act of 2006: Consortium Requirement for Minimum Allocation on November 9, 2006. This waiver meets that new criteria, so it is coming to the SBE on the Consent Calendar.

SUMMARY OF KEY ISSUES

Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270) requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Act permits states to waive the consortium agreement.

The SBE Waiver Policy indicates that:

The LEA is:

- A district or agency in a rural, sparsely populated area (as defined by National Center for Education Statistics (NCES) Locale codes 33, 41, 42, and 43), OR
- A public charter school operating secondary vocational and technical education programs (as evidenced by a State Board of Education issued charter number), AND

The LEA:

- Demonstrates that it is unable to enter into a consortium for purposes of providing activities under this section (as evidenced by a description from the LEA or CDE of efforts to enter into a consortium).

CDE staff contacted the Klamath-Trinity Joint Unified School District and verified that the LEA meets the new waiver criteria. The district is in NCES Locale Code #43 which is defined as rural, remote.

The Klamath-Trinity Joint Unified School District is located in the town of Hoopa, in Humboldt County, serving several communities along the Klamath and Trinity Rivers. The town is in the mountains of Northern California along highway 96 just off of Highway 299 and is located 112 miles from Redding and 60 miles from Eureka. Therefore there are no existing consortiums in this area that the district could join.

In addition, this LEAs isolated location makes it impractical to form a consortium with any other School District.

The department recommends approval.

Authority for Waiver: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Section 131(c)(2)

Period of request: July 1, 2007, through June 30, 2010

Local board approval date(s): April 17, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable the Klamath-Trinity Joint Unified School District to receive its annual Perkins funds (estimated to be $13,155) without having to participate in a consortium. The waiver has no significant effect on the distribution of Perkins funds, statewide.

BACKGROUND INFORMATION

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Heber Elementary School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Jeannette Arzaga assigned at Heber Elementary. Waiver Number: 14-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the resource specialist will have an instructional aide for seven hours per day to work with the additional students.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both *EC,* Section 56101 and *California Code of Regulation (CCR),* Title 5, Section 3100, allows the State Board of Education (SBE) to approve waivers of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in these regulations, which must be met for approval, and if these requirements are not met, the waiver must be denied.

A resource specialist is a credentialed teacher who provides instruction and services to children with individualized education programs that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with the regular school programs for their students. Statute limits caseload for resource specialists to no more than 28 students unless the SBE grants a waiver.

SUMMARY OF KEY ISSUES

CCR, Title 5, Section 3100 states an affected resource specialist will have the assistance of an instructional aide at least five hours daily wherever that resource specialist's caseload exceeds the statutory minimum during the waiver's effective period.

The community has experienced incredible growth during the current school year which resulted in Heber Elementary enrolling six new students mid-year in the resource program. The mid-year enrollment caused the need for the resource specialist to increase her caseload.

A Special Education Program Consultant in the California Department of Education (CDE) left voice mail messages for the resource specialist teacher on April 23, 24, 26, and spoke in person with her on April 30, 2007, regarding the waiver. She was in total agreement with the additional students placed on her caseload beginning on March 26, 2007 and informed me that she was receiving seven hours per day from an instructional aide.

CDE staff confirmed that the union was consulted and participated in the waiver request The bargaining unit representative, Manual Lopez, supports the waiver request.

The Special Education Division will follow up in mid to late September 2007 with this resource specialist who was working under the waiver during the 2006-07 school year. The purpose of the call is to make sure the RSP teacher identified in the waivers is within the RS caseload limit for the 2007-08 school year.

Authority for the Waiver: *EC* 56101, *CCR* Title 5, Section 3100

Period of request: March 27, 2007 to June 13, 2007

Local board approval date(s): March 26, 2007

Bargaining unit(s) consulted on date(s): March 23, 2007 and March 26, 2007

Name of bargaining unit(s)/representative(s): Heber Teacher Association, Manuel Lopez

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

FISCAL ANALYSIS (AS APPROPRIATE)

If this waiver is denied, the district will need to employ additional qualified staff or persons with emergency qualifications to provide services to the special education students.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **El Segundo Unified School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Beth Katz assigned at Richmond Elementary and Ramona Miller assigned at Center Street School. Waiver Number: 43-3-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That El Segundo Unified School District agrees to provide six hours of instructional aide time to both resource teachers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both *EC,* Section 56101 and *California Code of Regulations (CCR),* Title 5, Section 3100, allows the State Board of Education to approve waivers of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in these regulations, which must be met for approval; if these requirements are not met, the waiver must be denied.

A resource specialist is a credentialed teacher who provides instruction and services to children with individualized education programs (IEPs) that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with the regular school programs for their students. Statute limits caseload for resource specialists to no more than 28 students, unless the State Board of Education (SBE) grants a waiver.

SUMMARY OF KEY ISSUES

CCR, Title 5, Section 3100 states an affected resource specialist will have the assistance of an instructional aide at least five hours daily wherever that resource specialist's caseload exceeds the statutory minimum during the waiver's effective period.

Due to an unanticipated number of students with disabilities moving into the district and new referrals for assessment, the El Segundo Unified School District submitted a

Specific Waiver Request to increase the caseload for two of their resource specialists. The California Department of Education (CDE) staff confirmed, on April 10, 2007, that Beth Katz assigned at Richmond Elementary and Ramona Miller assigned at Center Street School resource specialists from El Segundo Unified School District, have agreed to increase their caseloads from 28 to 32 students beginning March 1, 2007, through July 1, 2007. CDE staff confirmed that the union was consulted and participated in the waiver request.

Both specialists assured the CDE the increased caseloads will not hinder the implementation of the students' IEPs. Daphne Moot, President, El Segundo Teachers' Association participated in the development of the waiver request on March 7, 2007, and indicated the union supports the waiver.

The El Segundo Unified School District agreed to provide each teacher with six hours of instructional aide time. It is recommended the SBE approve this request as allowed by the *CCR*, Title 5, Section 3100.

The Special Education Division will follow up in mid to late September 2007 with these two resource specialist who were working under the waiver during the 2006-07 school year. The purpose of the call is to make sure the RSP teachers identified in the waiver is within the RS caseload limit for the 2007-08 school year.

Authority for the Waiver: *EC* 56101, *CCR,* Title 5, Section 3100

Period of request: March 1, 2007 through July 1, 2007

Local board approval date(s): March 16, 2007

Bargaining unit(s) consulted on date(s): March 7, 2007 and April 10, 2007

Name of bargaining unit(s)/representative(s): Daphne Moot, President, El Segundo Teachers' Association

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is denied, the district will need to employ additional qualified staff or persons with emergency qualifications to provide services to the special education students.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Rocklin Unified School District** to waive *Education Code (EC)* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Deanna Torrington assigned at Twin Oaks Elementary School. Waiver Number: 40-3-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the resource specialist will have an instructional aide available for six hours per day.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

EC, Section 56101 and *California Code of Regulations (CCR),* Title 5, Section 3100, allows the State Board of Education (SBE) to approve waivers of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in these regulations, which must be met for approval; and if these requirements are not met, the waiver must be denied.

A resource specialist is a credentialed teacher who provides instruction and services to children with individualized education programs (IEPs) that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with the regular school programs for their students. Statute limits caseload for resource specialists to no more than 28 pupils, unless the SBE grants a waiver.

SUMMARY OF KEY ISSUES

CCR, Title 5, Section 3100 states an affected resource specialist will have the assistance of an instructional aide at least five hours daily wherever that resource specialist's caseload exceeds the statutory minimum during the waiver's effective period.

California Department of Education (CDE) staff confirmed that Deanna Torrington at Twin Oaks Elementary School in the Rocklin Unified School District will be provided an aide for six hours per day. The resource specialist agreed to the increase in her caseload from 28 to 32 students.

The waiver request states this year an unusual number of sixth grade students are being served, and it is anticipated that after this group of students transition to middle school the program will again operate within caseload limits in 2007-08. CDE staff confirmed that the union was consulted and participated in the waiver request.

The Special Education Division will follow up in mid to late September 2007 with this resource specialist who was working under the waiver during the 2006-07 school year. The purpose of the call is to make sure the RSP teacher identified in the waivers is within the RS caseload limit for the 2007-08 school year.

Authority for the Waiver: *EC* 56101 and *CCR* Title 5, Section 3100

Period of request: February 15, 2007 to June 30, 2007

Local board approval date(s): March 12, 2007

Bargaining unit(s) consulted on date(s): February 14, 2007

Name of bargaining unit(s)/representative(s): Mary Dick

Position of bargaining unit(s) (choose only one):

☒ Neutral ☐ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

If this waiver is denied, the Rocklin Unified School District will need to employ additional qualified staff or persons with emergency qualifications to provide services to the special education students placing a financial hardship on the district.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **West Contra Costa SELPA** to waive *Education Code (EC)* Section 56362 (c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Michael Taylor assigned at DeJean Middle School. Waiver Number 2-5-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the resource specialist will have an instructional aide for five hours per day to assist with the additional students.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both the *EC* 56101 and *California Code of Regulations* (*CCR*), Title 5*,* Section 3100, allow the State Board of Education (SBE) to approve waivers of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in these regulations, which must be met for approval, and if these requirements are not met, the waiver must be denied.

A resource specialist is a credentialed teacher who provides instruction and services to children with individualized education programs (IEPs) that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with the regular school programs for their students. Statute limits caseload for resource specialists to no more than 28 students unless the SBE grants a waiver.

SUMMARY OF KEY ISSUES

CCR, Title 5, Section 3100 states an affected resource specialist will have the assistance of an instructional aide at least five hours daily wherever that resource specialist's caseload exceeds the statutory minimum during the waiver's effective period.

The resource specialist teacher, Michael Taylor, stated in a phone conversation on May 23, 2007, due to the addition of three private school students he exceeded his caseload limit beginning April 19, 2007. He is responsible for updating the students' IEPs and coordinating their instruction with the private school staff.

The additional caseload is expected to continue until the end of the school year, June 13, 2007. The District is providing an assistant to the resource specialist for five hours a day. California Department of Education staff confirmed that the union was consulted and participated in the waiver request.

The Special Education Division will follow up in mid to late September 2007 with this resource specialist who was working under the waiver during the 2006-07 school year. The purpose of the call is to make sure the RSP teacher identified in the waivers is within the RS caseload limit for the 2007-08 school year.

Authority for the Waiver: *EC* 56101, *CCR,* Title 5*,* Section 3100

Period of request: April 1, 2007 through June 13, 2007

Local board approval date(s): April 19, 2007

Bargaining unit(s) consulted on date(s): April 19, 2007 and May 23, 2007

Name of bargaining unit(s)/representative(s):

United Teachers of Richmond, Gail Mendes

Position of bargaining unit(s) (choose only one):

☒ Neutral ☐ Support ☐ Oppose

Gail Mendes, expressed concerns that caseload increases are not in the best interest of the teaching staff but agreed they are necessary in the current situation.

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is denied, the district will need to employ additional qualified staff or persons with emergency qualifications to provide services to the special education students.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Denair Unified School District** to waive *Education Code (EC)* Section 56362 (c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum). Rhonda Bird assigned at Denair Middle School. Waiver Number: 4-5-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the resource specialist will have an instructional aide for nine hours per day to assist with the additional students.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Both the *EC* 56101 and *California Code of Regulations* (*CCR*), Title 5*,* Section 3100, allow the State Board of Education (SBE) to approve waivers of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students. However, there are specific requirements in these regulations, which must be met for approval, and if these requirements are not met, the waiver must be denied.

A resource specialist is a credentialed teacher who provides instruction and services to children with individualized education programs that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with the regular school programs for their students. Statute limits caseload for resource specialists to no more than 28 pupils unless the SBE grants a waiver.

SUMMARY OF KEY ISSUES

EC 56363(c) states no resource specialist shall have a caseload that exceeds 28 pupils. This waiver requests that Ms. Rhonda Bird, resource specialist, have a caseload of 32 students for school year 2006-07. Ms. Bird is assigned to Denair Middle School and confirmed per telephone conversation on May 22, 2007, that she agreed to the increase in her caseload of 28 students by no more than 4 students beginning May 1, 2007. California Department of Education staff confirmed that the union was consulted and participated in the waiver request.

This is the first year this District is over its caseload for this resource specialist. The District agreed to provide the services of another instructional aide to assist Ms. Bird for three hours per day in addition to the aide currently assisting for six hours per day. This agreement provides Ms. Bird with two aides for a total of nine hours of assistance.

Denair Middle School is in the process of hiring another resource specialist to provide special education services to students. This waiver will provide a grace period to insure special education services are not interrupted.

The Special Education Division will follow up in mid to late September 2007 with this resource specialist who was working under the waiver during the 2006-07 school year. The purpose of the call is to make sure the RSP teacher identified in the waivers is within the RS caseload limit for the 2007-08 school year.

Authority for the Waiver: *EC* 56101, *CCR,* Title 5*,* Section 3100

Period of request: May 1, 2007, through May 24, 2007

Local board approval date(s): May 10, 2007

Bargaining unit(s) consulted on date(s): April 16, 2007 and May 22, 2007

Name of bargaining unit(s)/representative(s): Carol Hammon, Denair Elementary School, Denair Teachers Association

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is denied, the District will need to employ additional qualified staff or persons with emergency qualifications to provide services to the special education students.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Chowchilla Union High School District** to waive *Education Code (EC)* Section 49550 the requirement that needy pupils must be provided a nutritionally adequate free or reduced-price meal during each school day (State Meal Mandate) during the Saturday School Session. Waiver Number: 45-3-2007	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

EC 33051(c) will apply as long as conditions remain the same.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Over the years the State Board of Education (SBE) has granted many general waivers of the meal requirements for needy children attending the Saturday school session. The SBE Guidelines for Evaluation of Waivers of the State Meal Mandate for Saturday Schools was adopted December 11, 1992, are used when reviewing these waivers.

This is a renewal of a waiver first granted for one year in May 11, 2006 for this district.

SUMMARY OF KEY ISSUES

Education Code (EC) 49550 states that each needy child that attends a public school be provided a nutritionally adequate free or reduced-price meal every school day. The Chowchilla Union High School has requested to waive *EC* Section 49550 for their Saturday school session and have certified their compliance with conditions necessary to obtain a waiver.

Schools offering classes on Saturdays may be granted a waiver if they meet two of the following conditions:

Condition Met?	
YES	The Saturday school session is less than four hours in duration and is completed by noon, allowing pupils to go home during the lunch period: **8:00 a.m. to 11:55 a.m.**

NO	The Saturday school site does not have proper refrigeration facilities to enable meals to be prepared on Friday and served on Saturday. **Site does have facilities.**
NO	Less than ten percent of the needy pupils attending the Saturday school session are at the school site for more than three hours per day. **Anticipate 12 needy students per day for more than 3 hours**
YES	Serving meals during the Saturday school session would result in a financial loss to the school district, documented by the district, in an amount equal to one-third of the food service net cash resources. **Statistics verified by CDE staff.**

The department recommends approval of this waiver as it meets two of the above guideline for approval.

As this is the second consecutive year of this waiver, *EC* 33051(c) will apply.

Authority for Waiver: *EC* Section 33050

Period of request: 07/10/07 TO 06/30/08

Local board approval date(s): 03/20/07

Public hearing held on date(s): 03/13/07

Bargaining unit(s) consulted on date(s): 03/13/07

Name of bargaining unit/representative(s) consulted: Certificated: Danielle Dougan and Classified: Rose Burns

Position of bargaining unit(s) (choose only one):
☒ Neutral (Classified) ☒ Support (Certificated) ☐ 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: School Site Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: 03/16/07

FISCAL ANALYSIS (AS APPROPRIATE)

There are no state costs attached to this waiver approval.

ATTACHMENT(S)

Consent Item: Backup materials, waiver request forms and supporting documents are not available for web viewing but are available for inspection in the Waiver Office.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Riverside County Office of Education** to waive *Education Code (EC)* sections 1206 and 1208, the requirement that a county superintendent must possess an administrative credential as a condition of holding the superintendent position. Waiver Number: 7-5-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That this waiver be approved from 7/1/2007 through 6/30/2008, to allow an appointment to the superintendent position for the upcoming fiscal year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is the first waiver of this type that the State Board of Education (SBE) has heard since the waiver granted to for Sacramento County Office of Education (COE) in March, 2004 to allow the recruitment and hiring of Dave Gordon.

SUMMARY OF KEY ISSUES

On March 28, 2007, Governor Schwarzenegger appointed Dr. David Long, the current Superintendent of the Riverside County Office of Education (COE) to be the California Secretary of Education effective July 1, 2007. The waiver of *EC* sections 1206 and 1208 is requested so that the board of education for Riverside COE may appoint Kenneth Young, the current Deputy Superintendent to serve for one year.

EC sections 1206 and 1208 require that a COE Superintendent "shall posses a valid administrative certification document authorizing administrative services (a general administrative credential)." For regular school districts, the statute is much more flexible. *EC* 35026 through 35304 contain various provisions for waiver by local boards of education and waivers by the California Commission on Teacher Credentialing (CTC). These waivers would then allow the hiring of a superintendent in a school district who may not have an administrative credential.

Mr. Young does not posses such a credential, although he has a great deal of past experience in educational and administrative positions, as documented in the waiver request itself.

The department recommends approval of this waiver for this period of time only.

Authority for Waiver: *EC* Section 33050

Period of request: 7/1/2007 to 6/30/2008

Local board approval date(s): 4/11/2007

Public hearing held on date(s): 4/11/2007

Bargaining unit(s) consulted on date(s), and name of bargaining unit/representative(s) consulted:

California School Employees Association, 4-12-2007, Ch 693 - Kasey Mc Call, President.

Riverside County Office Teachers Association, 4/12/07, Michael Bochicchio, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support (both Unions support) ☐ Oppose
Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (specify) three Riverside COE offices, and two newspapers.

Advisory committee(s) consulted: Public hearing for superintendent appointment process, April 11, 2007. At this hearing, public support was voiced for Mr. Kenneth Young.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 11, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

The waiver will have no fiscal impact on state finances.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Memorandum, Dated April 17, 2007 from Gerald Colapinto, President, Riverside COE (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Saddleback Valley Unified School District** to waive *Education Code (EC)* Section 51224.5(b), the requirement that all students graduating in the 2006-07 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 *EC* Section 56101, the special education waiver authority. Waiver Number: 44-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That this waiver removes only the requirement that one student who has attempted to pass a course in Algebra I (or its equivalent) for the 2006-07 graduating year. This one student has met other course requirements stipulated by the governing board of the school district of enrollment and *EC* 51225.3 in order to receive a high school diploma. In the event this student does not graduate in 2006-07, 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 2006-07 as required by *EC* 51224.5.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2000, legislation was enacted to require students as a condition of receiving a high school diploma to complete Algebra I. The Algebra I requirement applies beginning with students graduating in 2003-04. A limited number of waivers have been granted by the State Board of Education in the past.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the district was required to provide the following documentation:

- The district attached a valid, current Individualized Education Program (IEP) for each student for whom they are requesting a waiver. Highlight the areas of mathematics deficiencies and how the students' needs in mathematics were addressed.

- Information from IEPs for high school years to prove that each student was on the diploma track consistently and evidence that the IEP was written to support the students' participation in diploma track math courses, particularly algebra.

- Indicate the specific assistance the district provided to each student, such as supplementary aids, services, accommodations, modifications, and supports to attain this diploma track goal specifically for the algebra requirement in those years.

- Copy the transcript for each student. Highlight all former attempts at algebra and pre-algebra classes.

- Indicate which assessment the district has used at the high school level for the student: Standardized Testing and Reporting program (STAR) or California Alternate Performance Assessment (CAPA). (Use of the STAR is typically required for waiver approval recommendation.)

The above documentation specific to the student was reviewed by a special education consultant in full confidentiality. The district has provided facts indicating that failure to approve the request would hinder implementation of the student's IEP or compliance by the district for a free, appropriate education for students with disabilities.

The California Department of Education recommends approval of the waiver for one student on the following conditions: That this waiver removes only the requirement that the student successfully complete a course in Algebra I (or its equivalent) for the 2006-07 graduating year. The student must meet other course requirements stipulated by the governing board of the school district of enrollment and by *EC* 51225.3 in order to receive a high school diploma.

Authority for the Waiver: *EC* Section 56101

Period of request: 2006-07 School Year

Local board approval date(s): April 24, 2007

Bargaining unit(s) consulted on date(s): Consultation is not required for this waiver.

Name of bargaining unit(s)/representative(s): Consultation is not required for this waiver.

Position of bargaining unit(s) (choose only one): Consultation is not required for this waiver.

☐ Neutral ☐ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no adverse fiscal impact to the state if this waiver is approved

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (1 page) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by various local educational agencies to waive *Education Code (EC)* Section 51224.5(b), the requirement that all students graduating in the 2006-07 year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for special education student(s) based on *EC* Section 56101, the special education waiver authority. Waiver Number: Various	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That this waiver removes only the requirement that these students successfully complete a course in Algebra I (or equivalent) through December 31, 2007 only. These students must meet other course requirements stipulated by the governing board of the school district of enrollment and by *EC* 51225.3 in order to receive a high school diploma. In the event a student granted this waiver does not graduate by December 31, 2007, this waiver does not relieve the student of the responsibility to attempt to successfully complete a course in Algebra I (or equivalent) in future years as required by *EC* Section 51224.5(b).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The high school graduation requirement for Algebra I started with students graduating in 2003-04. A limited number of waivers have been granted by the State Board of Education (SBE) in the past.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the district was required to provide the following documentation:

- For each student included in the waiver request, attach a valid, current Individualized Education Program (IEP) for each student for whom you are requesting a waiver. Highlight the areas of mathematics deficiencies and how the student's needs in mathematics were addressed.
- Information from IEPs for high school years to prove that the student was on the diploma track consistently and evidence that the IEP was written to support the student's participation in diploma track math courses, particularly algebra.

- Indicate the specific assistance the district provided to the student, such as supplementary aids, services, accommodations, modifications, and supports, to attain this diploma track goal specifically for the algebra requirement in those years. Highlight all former attempts at algebra and pre-algebra classes.
- Copy of the transcript for each student. Highlight all former attempts at algebra and pre-algebra classes.
- Indicate which assessment the district has used at the high school level for the student: Standardized Testing and Reporting program (STAR) or California Alternate Performance Assessment (CAPA). (Use of the STAR is typically required for waiver approval recommendation).

The above documentation specific to each student was reviewed by a Special Education Consultant in full confidentiality. Additional information was gathered from the District by telephone or fax as need to make a determination. The District provided facts indicating that failure to approve the request would hinder implementation of the student's IEP or compliance by the district for a free, appropriate education for students with disabilities.

The California Department of Education recommends approval of the waiver for students on the following conditions: That this waiver removes only the requirement that these students successfully complete a course in Algebra I (or equivalent) through December 31, 2007. These students must meet other course requirements stipulated by the governing board of the school district of enrollment and by *EC* Section 51225.3 in order to receive a high school diploma. In the event a student does not graduate by December 31, 2007, this waiver does not relieve the student of its responsibility to successfully complete a course in Algebra I (or equivalent) in future years as required by *EC* Section 51224.5(b).

Authority for the Waiver: *EC* Section 56101

Period of request: 2005-06 School Year

Local board approval date(s): various dates

Bargaining unit(s) consulted on date(s): Consultation is not required.

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no adverse fiscal impact to the state if this waiver is approved.

ATTACHMENT(S)

Attachments will be coming in an Item Addendum.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Bassett Unified School District** to waive *Education Code (EC)* Section 15270, to allow the district to exceed its bonding limit of 2.5 percent of the taxable assessed value of property. (Requesting 2.84 percent) Waiver Number: 48-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That the bonded indebtedness of Bassett Unified School District not exceed 2.84 percent of the assessed valuation of taxable property of the district and that the waiver is limited to the sale of the bonds approved by the voters in the November 2006 election, the waiver is effective until July 2012.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved several bond limit waiver requests that have been limited to specific general obligation bond issues already approved by local voters involving other *EC* sections. This is the first time that a waiver of *EC* 15207 has been requested. This particular statute is recent, added by Assembly Bill 1908, statutes of 2000.

SUMMARY OF KEY ISSUES

The Bassett Unified School District, in Los Angeles County, is requesting a waiver of *EC* Section 15270 which prohibits unified school districts from issuing bonds in excess of 2.50 percent of the assessed valuation of taxable property of the district. This waiver would permit the district to increase its bonded indebtedness from its current 1.51 percent to 2.84 percent of assessed valuation.

The district currently has an outstanding bond balance from prior elections totaling approximately $23 million. In November 2006, the voters approved the sale of an additional $20 million in general obligation bonds. The district would like to issue the entire $20 million, but is limited to $14.9 million by the statutory bond limit. Approval of this waiver would allow the district to issue the difference, $5,117,563. This would increase the district from 1.51 percent to 2.84 percent in terms of ratio of issued bonds to assessed valuation.

Based on the current assessed valuation for the fiscal year 2006-07, the scheduled

reduction in the amount of the outstanding bonds, and assuming a conservative three percent assessed valuation growth within the district, the district would fall within the statutory debt limit by fiscal year 2010-11. At no time would the district's debt limit exceed the 2.84 percent of the assessed property value.

The waiver would allow the district to use the proceeds from the sale of bonds as matching funds for modernization projects as detailed in the ballot. The district's modernization projects address health and safety issues such as adding or improving fire, safety, and other building systems, hazardous materials removal, and restrooms. Additionally, funds will be used to improve access under the Americans with Disabilities Act. Currently the district is in a slightly decreasing enrollment status.

If the waiver is not approved, the district would need to obtain interim financing, and this could result in approximately $725,000 in financing and interest costs which would be paid from district funds instead of tax levies. The least desirable option would be for the district to delay the school construction projects or portions of the projects until the district could issue bonds in fiscal year 2010-11 at which time bonds could be issued without a waiver.

Approving the waiver would also allow the district to be able to offer projects of a size large enough to attract larger contractors. This could reduce the total number of construction days, which may shorten the impact of construction – noise, loss of facility, dust, and hazards – on the instructional program, as well as reduce the number of staff hours dedicated to overseeing the projects.

Authority for Waiver: *EC* Section 33050

Period of request: July 2007 to July 2012

Local board approval date(s): April 26, 2007

Public hearing held on date(s): April 26, 2007

Bargaining unit(s) consulted on date(s): April 20, 2007, and April 23, 2007

Name of bargaining unit/representative(s) consulted: Bassett Teachers' Association and Classified State Employees' Association

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 Office

Advisory committee(s) consulted: Bond Oversight Committee, School Site Council, District English Learner Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 23, 2007, April 25, 2007, and April 26, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver would allow the district to issue the recently approved $20 million in voter approved bonds to address the district's modernization projects without incurring added finance costs or construction delays. If the waiver is not approved, the district could incur costs of up to $725,000.

BACKGROUND INFORMATION

Attachment 1: General Waiver Request (5 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Resolution (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by the **Lassen Union High School District** under the authority of *Education Code (EC)* Section 45107.8 to waive *EC* 45108.5(b)(1) to increase permanently the number of classified senior management positions in the district. Current: allowed 2 positions. Proposed: 3 permanent positions. Waiver Number: 35-3-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

That the district, maintain three classified senior management positions; Director of Maintenance, Chief Business Officer, and Director of Transportation.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved several waivers of *EC* 45108.5(b) for various school Districts.

SUMMARY OF KEY ISSUES

The specific waiver authority *EC* 45108.7, allows the SBE to waive the limit on the number and type of senior management positions in a school district. *EC* 45108.5 specifies that the maximum number of designated senior management positions is two positions for a district the size of Lassen Union, with less than 10,000 units of average daily attendance.

This area of the code defines a senior management employee as “(1) An employee in the highest position in a principal district program area, as determined by the governing board, which does not require certification qualifications, and which has districtwide responsibility for formulating policies or administering the program area,” or “(2) An employee who acts as the fiscal advisor to the district superintendent.”

The district requests that three positions consisting of Director of Maintenance, Chief Business Official, and Director of Transportation be designated as senior management positions. These positions have district-wide responsibility for formulation of district policy and procedures, administer large program areas, or act as the fiscal advisor to the superintendent.

The advantage of positions that are designated as senior management positions is that the appointment of classified employees serving in those positions may be terminated by written notice of the governing board, thus permitting a district to react more immediately to changing district needs and circumstances. Specifically, pursuant to *EC* 45100.5, employees whose positions are designated as senior management positions are part of the classified service and have all the "rights, benefits, and burdens" as other classified employees, except that they are exempt from all provisions related to obtaining permanent status in a senior management position.

The department recommends approval on the conditions that three positions be designated as senior management positions; Director of Maintenance; Chief Business Officer and Director of Transportation. The positions have responsibilities consistent with the statutory definition of a classified senior management employee and previous waiver requests approved by the SBE. Also, there is no fiscal impact to the district because the positions already exist with the current management structure.

Authority for the Waiver: *EC* Section 45108.7

Period of request: July 1, 2007, through June 30, 2010

Local board approval date(s): March 13, 2007

Bargaining unit(s) consulted on date(s): 3/5/07, 3/8/07

Name of bargaining unit(s)/representative(s): CSEA, Peggy Beckerdite; LTA John Crosby

Position of bargaining unit(s) (choose only one):

☒ **Neutral** ☐ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact on either the district or the state.

BACKGROUND INFORMATION

Attachment 1: Specific Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: List of Senior Management Positions (1 page).

Classified Senior Management proposal: three permanent positions.

One Director of Maintenance

One Chief Business Officer

One Director of Transportation

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by the **Escondido Union High School District** to waive portions of *Education Code (EC)* Section 47614.5 to allow **Escondido Charter High School** to retain Charter School Facility Grant Program funds received in 2004-05 and 2005-06, rather than returning those funds to the state. Waiver Number: 14-5-2007	☒ **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 because:

- Pupil or school personnel protections would be jeopardized, within the meaning of *EC* Section 33051(a)(4); and
- State costs would be substantially increased, within the meaning of *EC* Section 33051(a)(6).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Under *EC* Section 33050, a school district governing board may request a waiver of various provisions of statute and regulation for one or more of the schools under its jurisdiction. Escondido Charter High School (HS) is chartered by the Escondido Union High School District (EUHSD).

The SBE has not previously considered a waiver request pertaining to the Charter School Facility Grant Program (CSFGP), *EC* Section 47614.5.

SUMMARY OF KEY ISSUES

The CSFGP was established by Senate Bill 740 (Chapter 892, Statutes of 2001). The program provides state funding of up to $750 per unit of average daily attendance to charter schools in which at least 70 percent of the pupils in the charter school or the elementary school where the charter school is located qualify for free and reduced-price meals.

The funds are primarily to reimburse a qualifying charter school for “up to, but no more than, 75 percent of the [school’s] annual facilities rent and lease costs.” The program is

also allowed to be used for remodeling, deferred maintenance building fixtures and service systems, and site improvements, as may be necessary. (See Attachment 1)

Escondido Charter HS received CSFGP funds for 2003-2004 (paid with 2004-05 FY funds) and 2004-2005 (paid out in 2005-06). In expenditure reports to the CDE regarding those funds, the school identified $547,917 as having been spent for mortgage loan payments associated with a loan to build a new high school, owned by the charter school. Because CSFGP funds are to reimburse charter schools for "rent and lease costs," the CDE has invoiced Escondido Charter HS to recover the amount spent on mortgage payments, only for both years.

In 2006-07, Escondido Charter HS did not spend CSFGP funds for loan payments and did receive the full reimbursement requested. There were also allowable expenses (such as remodeling, deferred maintenance building fixtures and service systems, and site improvements) from the 2003-04 and 2005-06 which were approved by CDE (see chart below). Over these three years the ECHS has qualified for $123,050 dollars for appropriate expenditures from this grant program

Fiscal Year of Claim	Fiscal Year Funds Paid	Total Costs Claimed by Escondido Charter High School	Total Reimbursement (Current state funding is only at about the 50% level)	Approved expenses	Disapproved Expenditures Invoiced for return to CDE
2003-04	2004-05	$734,926	$ 311,394	$ 13,595	$ 297,779
2004-05	2005-06	$927,830	$ 330,924	$ 80,806	$ 250,118
2005-06	2006-07	$192,263	$ 28,649	$ 28,649	NONE*
				$123,050	$547,917 Invoiced

- Escondido Charter High School revised the 2006-07 request for reimbursement reflecting only those allowable expenditures. They received full funding, minus the shortfall (need vs funding) that all other charter schools experienced.

The CSFGP is clearly for the purpose of addressing immediate facility needs (rents and leases) as well as other allowable expenses of charter schools that serve high poverty areas. The program was not envisioned to assist with the purchase of facilities that would then become assets of the charter schools.

To the extent Escondido Charter HS received and used CSFGP funds for loan

payments, instead of rents or leases, its action was inconsistent with the intent of SB 740. In essence this action resulted in reduced funds being provided to other qualifying charter schools with high poverty students for actual rent and lease costs and other allowable costs. State costs would be substantially increased, within the meaning of EC Section 33051(a)(6), if the payments for purchase of actual facilities was allowed. This would also significantly raise the under funded portion for all other charter schools applying for these funds..

Granting this waiver request would permit Escondido Charter HS to retain the funds and, in so doing, would jeopardize the pupil and school personnel protections for the pupils and staff in other eligible charter schools, within the meaning of *EC* Section 33051(a)(4).

For these reasons, CDE recommends denial of this waiver.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2003, through June 30, 2006
If approved, this waiver would be operative retroactively for three consecutive years. Arguably the waiver could have ongoing effect pursuant to *EC* Section 33051(c). However, as the waiver expressly ceases by terms of the request, it would presumably have no effect beyond June 30, 2006.

Local board approval date(s): May 15, 2007

Public hearing held on date(s): May 15, 2007

Bargaining unit(s) consulted on date(s): Although EUSHD has bargaining units, ECHS does not. Since this request was submitted on behalf of ECHS, no bargaining units were consulted.

Name of bargaining unit/representative(s) consulted: Although EUSHD has bargaining units, ECHS does not. Since this request was submitted on behalf of ECHS, no bargaining units were consulted.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose
Comments (if appropriate): Although EUSHD has bargaining units, ECHS does not. Since this request was submitted on behalf of ECHS, no bargaining units were consulted.

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☒ other (specify)
The public hearing notice was advertised in the *North County Times*.

Advisory committee(s) consulted: ECHS Leadership Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: May 8, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver request would prevent the CDE from recovering $547,917 from ECHS. The funds from the 2004-05 fiscal year ($ 297,779) will be returned to the state general fund as it is past the three year reallocation timeframe required in the budget act. Funds from the 2005-06 ($250,118) will be redistributed to the 162 eligible charter schools that were approved for funding in that year.

BACKGROUND INFORMATION

Attachment 1: Allowable Expenses for SB 740 Program (1 page)

Attachment 2: General Waiver Request (32 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.

Allowable Expenses for SB 740 Program

A. Facilities Rent or Lease: These are costs included in CSAM account code 5600 (CSAM page 330-20) that are associated with renting or leasing a facility. Include payment by the charter school for facility use to a building owner who is not a school district, county office of education, or the charter school. **(Leases with an option to purchase, capital leases, or any contractual agreement, which in substance amounts to a purchase agreement is not a reimbursable cost under this program.**

B. Remodeling: These are costs included within CSAM account code 6200 (CSAM page 330-23 through 330-24) that are associated with *improvements* of existing buildings that are rented, leased, or owned by the charter school. This category does not include the construction or purchase costs included in the definition of account code 6200. Report only costs paid by the charter school, not costs paid by the facility owner.

C. Deferred Maintenance: These are costs associated with *major or deferred maintenance* of existing buildings that are rented, leased, or owned by the charter school. Deferred maintenance may include any of the items identified in *Education Code* Section 17582(a). These costs may alternatively be reported in the Remodeling, Installation or Extension of Service Systems or Built in Equipment, or Site Improvements categories, as appropriate. Report only costs paid by the charter school, not costs paid by the facility owner. Improvements made to facilities owned by a district or county office of education are not allowable.

D. Installation or Extension of Service Systems or Built in Equipment: These are costs included within CSAM account code 6200 that are associated with *building fixtures or service systems* of existing buildings that are rented, leased, or owned by the charter school. Pages 330-23 through 330-24 of CSAM provide specific *Criteria of Identification of Building Fixtures and Service System*s. These criteria should be reviewed before reporting costs in this category. Report only costs paid by the charter school, not costs paid by the facility owner. Improvements made to facilities owned by a district or county office of education are not allowable.

E. Site Improvements: These are costs included within CSAM account code 6100 (CSAM page 330-23) that are associated with *Improvements of Sites* for the use of facilities that are rented, leased, or owned by the charter school. This does *not* include any costs associated with acquisition of land and additions to old sites and adjacent ways. The costs of site improvements to property owned by a school district or county office of education are not allowable. On pages 330-23 through 330-24, CSAM defines specific costs that may be included under site improvements. These criteria should be reviewed before reporting costs in this category. Report only costs paid by the charter school, not costs paid by the facility owner.

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by the **Twin Ridges Elementary School District** (TRESD), located in Nevada County, to waive portions of *Education Code (EC)* sections 47605, 47605.1, and 47607 to allow **Maria Montessori Charter Academy**, a charter school located in the Rocklin Unified School District in Placer County, to continue to be authorized by the TRESD through June 30, 2008. Waiver Number: 15-5-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That the waiver be effective only from November 12, 2007, through June 30, 2008, and the State Board of Education (SBE) state its intent not to renew the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Under *EC* Section 33050, a school district governing board may request a waiver of various provisions of statute and regulation for one or more of the schools under its jurisdiction. Maria Montessori Charter Academy (MMCA) is currently chartered by the Twin Ridges Elementary School District (TRESD).

The SBE has received several waiver requests pertaining to the location of charter schools outside the chartering district. The SBE has approved the requests if limited to no more than one year and if needed to address transitional issues.

SUMMARY OF KEY ISSUES

EC sections 47605 and 47605.1 generally require a charter school authorized by a school district to be located within the district's geographic boundaries. This requirement took effect January 1, 2003. Non-compliant charter schools in existence at that time were permitted to complete their existing charter terms. In most cases, as the affected charter schools' terms have neared expiration, the schools have sought approval of new charters from the districts in which they are located. One consequence of a change in charter authorizer is that the affected charter school appears to be new (i.e., new charter number and new CDS code), even though it is not.

The MMCA, which is located in the Rocklin Unified School District (RUSD) in Placer County, was granted a five-year charter renewal by the TRESD, which is located in Nevada County, in November 2002, just before the statutory location limitations took effect. The school's charter term is due to expire in November 2007.

Eventually, MMCA plans to seek a new charter from the RUSD. However, MMCA is currently involved in a state-financed facility project, and a change in charter number and CDS code would imperil the financing. Thus, this waiver would allow the TRESD to continue to be the school's charter authorizer for the whole of 2007-08 (i.e., to June 30, 2008), a temporary, transitional extension of less than one year's duration.

All of the affected parties are supportive of this waiver request, including the MMCA, TRESD, and RUSD, as well as the Nevada County Superintendent of Schools and the Placer County Superintendent of Schools. MMCA has a 2006 base Academic Performance Index (API) of 747, placing it in the statewide rank of 5 and the similar schools rank of 1.

Authority for Waiver: *EC* Section 33050

Period of request: November 12, 2007, through June 30, 2008

Local board approval date(s): May 15, 2007

Public hearing held on date(s): May 15, 2007

Bargaining unit(s) consulted on date(s): The MMCA has no bargaining units, and this request is submitted on the charter school's behalf.

Name of bargaining unit/representative(s) consulted: The MMCA has no bargaining units, and this request is submitted on the charter school's behalf.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose
Comments (if appropriate): The MMCA has no bargaining units, and this request is submitted on the charter school's behalf.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify)
The notice was also "posted at post office, school district office and local supermarket."

Advisory committee(s) consulted: MMCA Governing Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: May 14, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver request would have essentially no impact on state costs. If state facility funding were not given to MMCA, it would be reallocated to other projects. If MMCA students were to be educated at other public schools, the cost to the state would be approximately the same.

BACKGROUND INFORMATION

Attachment 1: General Waiver Request (6 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by the **Contra Costa County Office of Education** for a waiver of portions of *Education Code (EC)* Section 35706 regarding the 120-day timelines between the first public hearing and approval or disapproval of the petition by the Contra Costa County Committee on School District Organization regarding the transfer of acreage from Knightsen Elementary School District to Oakley Union Elementary School District. Waiver Number: 9-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That the waiver will only apply to the above proposed territory transfer and will terminate on April 18, 2009. *EC* 33051(c) will not apply.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved similar waiver requests in the past. The most recent approval was for a joint waiver request by the Riverside and San Bernardino County Offices of Education on March 8, 2007.

SUMMARY OF KEY ISSUES

A county committee on school district organization (county committee) is required by the *EC* to take certain actions, including holding public hearings, when it receives a petition to transfer territory between school districts. *EC* 35706 requires the county committee to recommend approval or disapproval of the territory transfer within 120 days of conducting the first public hearing of the petition.

In 1982, the California Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of the California Environmental Quality Act (CEQA). The county committee, as the agency with authority to approve territory transfers, is the lead agency for purposes of the CEQA. As such, it is required to consider the impact of the territory transfer on the environment.

The Contra Costa County Committee on School District Organization anticipates that approximately 18 months more than the 120 days provided by statute will be required to address CEQA requirements for the proposed transfer of territory from Knightsen Elementary School District to Oakley Union Elementary School District. The CEQA

process must be completed before a territory transfer proposal can be approved by a county committee.

The department recommends approval for waiver of these timelines this particular territory transfer only through April 18, 2009, *EC* 33051(c) will not apply.

Authority for Waiver: *EC* Section 33050

Period of request: July 12, 2007, to April 18, 2009 (as modified by CDE)

Local board approval date(s): March 21, 2007

Public hearing held on date(s): March 21, 2007

Bargaining unit(s) consulted on date(s): March 13, 2007, and March 14, 2007

Name of bargaining unit/representative(s) consulted: Sharilynn Russo, Spokesperson, Local Chapter, CCSESA/CTA/NEA (3/13/07) (Neutral);
Georgia Williams, President, General Classified Unit, Public Employee Union, Local One (3/14/07) (Support).

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 County Board of Education has the same membership composition as the County Committee on School District Organization.

Objections raised (choose one): ☐ None ☐ Objections are as follows:

Date(s) consulted: Not applicable

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no significant cost to the Contra Costa County Office of Education, any affected district, or the state due to approval of this waiver.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Stockton Unified School District** to waive *California Code of Regulations (CCR)*, Title 5, Section 3043(d) which requires a minimum of 20 school days of attendance (with varied minutes depending on grade level of students) for an extended school year (summer school) for special education students. Waiver Number: 5-5-2006	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That the district: 1) provide within 14 days of increased minutes, the time equal to that normally provided in 20 days as required by *CCR*, Title 5, Section 3043 (g)(1); and 2) only 14 days of special education average daily attendance (ADA) may be claimed for this service.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In past years, the State Board of Education (SBE) has approved a number of waivers to allow school districts to provide the required minimum amount of time in fewer days during the extended school year for special education students, although the number of days of ADA paid is also reduced.

Extended school year (ESY) is the term for the education of the special education student “between the close of one academic year and the beginning of the next”, similar to a summer school. The difference is that if an extended school year is required by the students individualized education program (IEP) the district is required to offer the schooling, unlike most summer schools.

SUMMARY OF KEY ISSUES

The Stockton Unified School District is requesting a waiver to allow their ESY Program for special education students to match the period of time both in days and number of minutes as a regular education program which would allow for more mainstreaming opportunities and simplification of transportation and food services issues. This waiver would allow special education students to continue to participate in their educational programs as noted on their Individualized Education Program (IEP) without interruption.

The Stockton Unified School District developed a two-year reconfiguration plan which would result in shortening the number of days and extending the length of the school day to accommodate the needed number of minutes. The programs will run 14 days over 3 weeks, with the same number of instructional minutes as deemed necessary by regulations.

The District submitted all student names and school sites affected by the proposed change. All school administrators, teachers, and transportation organizations met and agreed to this change.

Authority for Waiver: *EC* Section 56101

Period of request: June 21, 2007 through August 7, 2007

Local board approval date(s): May 8, 2007

Public hearing held on date(s): May 8, 2007

Bargaining unit(s) consulted on date(s): Stockton Teachers Association Consulted, May 8, 2007

Name of bargaining unit/representative(s) consulted: Eliyahu Rabin

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: Stockton SELPA's Community Advisory Committee (CAC)

Objections raised (choose one): ☐ None ☐ Objections are as follows:

Date(s) consulted: June 7, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact on either the District or the State pursuant to AB 602 funding

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Petition Waiver**

SUBJECT	
Request by **Lake Tahoe Unified School District** to purchase specified non-adopted instructional materials (*Everyday Mathematics*, c. 2001 for grades kindergarten through three and c. 2002 for grades four through six) using Instructional Materials Funding Realignment Program (IMFRP) monies for the 2007-08 school year. Waiver Number: 46-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district continues to supplement the *Everyday Mathematics* program to ensure that all content standards are met as previously approved.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Many prior waiver/petition requests have been approved by the SBE, most with the condition that districts supplement the *Everyday Mathematics* program to ensure that all mathematics content standards are met.

This is the district's fourth request for a waiver/petition for *Everyday Mathematics.* The district submitted an IMFRP Petition for this same program and was granted it by the SBE in February 2003. The district submitted an additional request in July 2005 that was withdrawn and resubmitted for the September 2005 SBE meeting. At that meeting, the SBE agreed to grant the petition for one year, with the condition that the district submit additional assessment data at that time to determine if the petition should be extended. At its July 2006 meeting, the SBE approved another IMFRP petition with the condition that the district continues providing professional development to its teachers on the use of the *Everyday Mathematics* program. As part of its June 2006 action the SBE stated that new assessment data would be required before any additional renewals would be granted.

SUMMARY OF KEY ISSUES

While no SBE policy currently exists for petitions under the IMFRP, language within the Instructional Materials Funding Realignment Program in *EC* Section 60421(d) specifically authorizes the SBE to grant waivers for the purchase of non-adopted materials with IMFRP funds.

The district is seeking approval of this petition to enable it to complete the current adoption cycle with the *Everyday Mathematics* program. The district has stated that they intend to purchase a new program from the 2007 Mathematics Primary Adoption list. The SBE is scheduled to take action on that adoption at its November 2007 meeting, giving the district enough time to select and purchase a program in time to have it in the classroom by the start of the fall term in 2008.

This district has experienced declining enrollment and has reduced its number of elementary schools from six to four, including a new environmental science magnet school. These schools have Academic Performance Index (API) rankings from the first through the eighth deciles.

As required by the SBE at its July 2006 meeting, the district has continued to provide professional development for its teachers in the use of the *Everyday Mathematics* program. A list of specific professional development activities provided by the district is included in the district's narrative in support of the petition request. The district also supplements the program using materials developed by a committee of grade four through six teachers who worked with *Everyday Mathematics* trainers to develop additional materials to ensure that all standards are fully addressed by the district's program. The district has been using these supplementary materials since 2003.

The district has also provided new assessment data from the 2006 administration of the California Standards Test in mathematics. The district's test scores showed an overall increase in grades two through five, but one of the elementary schools, Tahoe Valley Elementary, showed declines in assessment scores in second, third, and fifth grade. Due to its declining enrollment situation, the district has experienced significant movement of its student population over the last two years and expects to see continued improvement in assessment data moving into future years.

The request is only for one more year until a new state adoption. District costs to purchase all new standards aligned materials for one year will be $259.997.00, 136 percent of their total IMFRP budget.

Authority for Petition: *EC* Section 60421(d) and 60200(g)

Period of request: July 1, 2007, through June 30, 2008

Local board approval date(s): April 24, 2007

Public hearing held on date(s): April 24, 2007

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☐ other (specify)

FISCAL ANALYSIS (AS APPROPRIATE)

Estimated cost of requested materials: $41,000
LEA's total K-8 IMFRP for the school year: $191,000
Proposed expenditure as percentage of total IMFRP funds: 21%

ATTACHMENT(S)

Attachment 1: Petition Request (7 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Assessment Data (12 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Garden Grove Unified School District** under the authority of *Education Code (EC)* Section 60422(c) to waive *EC* Section 60422(a), the "24 month rule" for purchase of instructional materials after the adoption of a new list by the State Board of Education. Request is to delay the adoption of History–Social Science at the kindergarten through grade six level only for an additional six months. Waiver Number: 1-5-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district have instructional materials from the 2005 History-Social Science Primary Adoption purchased, and ready to implement in the hands of students by March 1, 2008.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

There is no existing State Board of Education (SBE) policy on waivers of the "24 month rule" under the Instructional Materials Funding Realignment Program (IMFRP). This is the third waiver submitted to the SBE for this issue; the first two were approved with conditions at the May 2007 SBE meeting.

SUMMARY OF KEY ISSUES

EC Section 60422 outlines the requirements of the IMFRP. One of these requirements is that districts that accept this funding from the state provide standards-aligned instructional materials to students, "by the beginning of the first school term that commences no later than 24 months after those materials were adopted by the SBE."

EC Section 60422(c) includes provision for the SBE to grant school districts additional time to meet the requirement to provide students with standards-aligned instructional materials following an SBE adoption. The additional time is based upon the district meeting the following criteria:

(1) The school district has implemented a well-designed, standards-aligned basic instructional materials program.

(2) The school district, at the time of its request for additional time pursuant to this subdivision, has sufficient textbooks or basic instructional materials for use by each pupil.

(3) The school district has adopted a plan for the purchase of standards-aligned instructional materials in accordance with subdivision (a), but that plan indicated an alternative date for compliance that is declared in the request for additional time.

Garden Grove Unified School District has requested an additional six months to purchase standards-aligned instructional materials for kindergarten through grade six from the SBE-adopted 2005 History–Social Science Primary Adoption list. The district is currently planning on implementing a new elementary history–social science program in spring of 2008. It anticipates conducting all future adoptions according to the SBE timetable and does not anticipate needing an additional waiver in the future.

The district has provided supporting evidence to indicate that it has met each of the criteria listed in *EC* Section 60422(c):

(1) The district is currently using a standards-aligned history–social science program from the SBE's 1999 adoption list. The district's population includes 47 percent English language learners, and yet the percentage of students that scored at "proficient" or higher on the eighth grade History–Social Science California Standards Test (CST) rose from 33 percent in 2004, to 38 percent in 2005 and 47 percent in 2006. These scores are significantly higher than the state average.

(2) The district submitted a copy of its sufficiency resolution from 2006-07, stating that its students have sufficient instructional materials.

(3) The district submitted a description of its plan for the selection, piloting, and implementation of instructional materials programs so that it could meet its present and future obligations with available IMFRP funds.

The department recommends approval of this waiver on the condition that the district have instructional materials from the 2005 History-Social Science Primary Adoption purchased, and ready to implement in the hands of students by March 1, 2008.

Authority for the Waiver: *EC* Section 60422(c)

Period of request: September 1, 2007, through March 1, 2008.

Local board approval date(s): May 1, 2007

Bargaining unit(s) consulted on date(s): May 1, 2007

Name of bargaining unit(s)/representative(s): Garden Grove Education Association, Eric Padget, President

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is not granted, the district will have to purchase instructional materials from the 2005 adoption list without prior piloting or teacher training, in order to have them in the hands of students at the start of the 2007-08 school year. If the district failed to do so, it would risk forfeiting future IMFRP allocations. The district did not submit any cost estimates for this scenario.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (12 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Cloverdale Unified School District** to waive *Education Code (EC)* Section 46201(d), the Longer Day Incentive Program audit penalty for offering less instructional time in the 2005-2006 fiscal year than the state minimums set 1986-87 at **Cloverdale High School** by 345 minutes for students in grades 9-12. Waiver Number: 43-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district maintains increased instructional time in the Cloverdale High School in grades 9-12 from the required 64,800 minutes per year to at least 65,145 minutes per year for a period of two years beginning in 2006-07 and continuing through 2007-08 and report the increases for the instructional minutes in their yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved similar requests with conditions. *EC* Section 46206 authorizes waivers to be granted for fiscal penalties because of a shortfall in instructional time. A waiver may 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 in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the minimum number of instructional days for the school year following the year.

SUMMARY OF KEY ISSUES

During an audit of annual instructional minutes, it was discovered that the district failed to offer the required number of minutes at Cloverdale High School. The administrator reduced the number of annual minutes for the bell schedule without realizing the consequences of doing so. Districts must maintain their instructional minutes at the 1986-87 state minimum requirements, which are 64,800 for grades 9-12.

The district began making up the shortfall in 2006-07 by increasing the number of minutes by well over 345 for all grades at the high school. Some of the affected students will not receive the full amount of make up time due to graduation from school. However, the district agreed to increase the instructional time to 65,490 minutes per year, more than the amount required by waiver.

The department recommends approval for this waiver as long as the district maintains increased instructional time in the Cloverdale High School in grades 9-12 from the required 64,800 minutes per year to 65,145 minutes per year for a period of two years beginning in 2006-07 and continuing through 2007-08 and report the increases for the instructional minutes in their yearly audits.

Authority for the Waiver: *EC* Section 46206

Period of request: 2005-06

Local board approval date(s): April 25, 2007

Bargaining unit(s) consulted on date(s): November 14, 2007

Name of bargaining unit(s)/representative(s): Teachers' Association of Cloverdale/CTA, Suzanne Gunnink

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose
Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

The penalty amount is calculated as follows:

362 (Average Daily Attendance) times $5,357.23 (Base Revenue Limit) times 0.99108 (Deficit Factor) equals $1,922,018.55 (Apportionment). 345 (Number of Minutes Short) divided by 64,800 (Number of Required Minutes) equals 0.53% (Percentage of Minutes Not Offered). $1,922,018.55 (Apportionment) times 0.53% (Percentage of Minutes Not Offered) equals $10,232.97 (Penalty Amount). The district wants to waive the full penalty amount.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Copy of Audit Finding (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 3: Instructional Time Make Up Schedules for 2006-07 and 2007-08 (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Paradise Unified School District** to waive *Education Code (EC)* Section 46202(b), the Longer Day Incentive Program audit penalty for offering less instructional time in the 2005-2006 fiscal year than what the district offered in 1982-1983 at **Paradise Intermediate School** by 790 minutes for students in grades 7-8. Waiver Number: 41-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the district maintains increased instructional time at the Paradise Intermediate School in grades 7-8 from the required 57,750 minutes per year to 58,540 minutes per year for a period of two years beginning in 2007-08 and continuing through 2008-09 and report the increases for the instructional minutes in their yearly audits.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved similar requests with conditions. *EC* Section 46206 authorizes waivers to be granted for fiscal penalties because of a shortfall in instructional time. A waiver may 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 in addition to the amount for twice the number of years that it failed to maintain the required minimum length of time for the minimum number of instructional days for the school year following the year.

SUMMARY OF KEY ISSUES

The annual audit of instructional minutes revealed that Paradise Intermediate School was 790 minutes short of the required 57,750 instructional minutes for grades 7 through 8 (all grade levels served). A change in the schedule caused this error. The district administration was unaware of the requirement to offer the amount of annual instructional minutes offered in 1982-83 or the annual instructional minutes established by the Longer Day Incentive Program in 1986-87, whichever is greater and only offered the lesser of the two amounts. The shortfall created a fiscal penalty of $45,362. The district is requesting a waiver of the full fiscal penalty amount.

The district will begin making up the time in 2007-08 and continue through 2008-09. The district has submitted bell schedules and calendars to verify this information. The grade levels short in 2005-06 and the affected students have moved on to one of two high

schools in the district so will not receive the make up time.

The department recommends approval for this waiver as long as the district maintains increased instructional time in the Paradise Intermediate School in grades 7-8 from the required 57,750 minutes per year to 58,540 minutes per year for a period of two years beginning in 2007-08 and continuing through 2008-09 and report the increases for the instructional minutes in their yearly audits.

Authority for the Waiver: 46206

Period of request: 2005 to 2006

Local board approval date(s): April 17, 2007

Bargaining unit(s) consulted on date(s): January 23, 2007

Name of bargaining unit(s)/representative(s): Teachers' Association of Paradise, Stacie Martin

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose
Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

The calculation for the penalty amount is:

648 (Average Daily Attendance) times $5,163.34 (Base Revenue Limit) times 0.99108 (Deficit Factor) equals $3,315,999.39 (Apportionment). 790 (Number of Minutes Short) divided by 57,750 (Number of Required Minutes) equals 1.37% (Percentage of Minutes Not Offered). $3,315,999.39 (Apportionment) times 1.37% (Percentage of Minutes Not Offered) equals $45,361.72 (Penalty). The district requests to waive the full penalty amount.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Copy of the Audit Finding (1 page) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 3: Bell Schedules and Instructional Time Schedule for 2007-08 (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 4: Bell Schedules and Instructional Time Schedule for 2008-09 (2 pages)
(This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Alpine County Unified School District** to waive a portion of *Education Code (EC)* Section 35330(d) to authorize expenditure of school district funds for eighth grade students to travel to Washington, D.C., which is part of their study of American History and Government. Waiver Number: 40-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

EC Section 33051(c) will apply as long as the conditions of the waiver remain the same.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved similar waivers in the past. This is a renewal of a previous waiver, # 6-11-2007-W-10 approved on January 11, 2007 by the State Board of Education.

SUMMARY OF KEY ISSUES

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."

Alpine County Unified School District requests a waiver of *EC* Section 35330(d) to allow their eighth grade students and two chaperones to use district funds to travel out-of-state to Washington, D.C., as part of their American studies program on October 4, 2007 through October 13, 2007. Without district support, these students would miss this trip. This trip is both educationally and culturally enlightening for these rurally isolated students.

This is an annual field trip for the eighth grade students of this remotely located district. This is a renewal request of a waiver approved in January of 2007 by the SBE. This trip provides Alpine County students with an experience of history and culture in a way that would not be available to them otherwise. Alpine County is hours away from any cultural or urban center so this trip gives these students a unique educational opportunity.

The district included an estimate of the cost of this trip at $11,359, which includes transportation, accommodations and food. The school site council has voted to

contribute $5,000 towards the cost of the trip and participating students are to raise the rest of their portion of the expense and use funds left over from the previous year's fundraisers. The district will expend a total of $6,000 of school district funds.

As this trip will broaden the educational and cultural experiences of the participating students, the department recommends approval of this waiver request. *EC* Section 33051(c) will apply to this annual field trip for the eighth grade students traveling out-of-state to Washington, D.C., as part of their American studies program as long as the conditions of the waiver remain the same.

Authority for Waiver: *EC* Section 33050

Period of request: October 4, 2007 to October 3, 2009

Local board approval date(s): April 17, 2007

Public hearing held on date(s): April 17, 2007

Bargaining unit(s) consulted on date(s): April 6, 2007

Name of bargaining unit/representative(s) consulted: Alpine Teacher's Association, Joe Voss

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) three public places

Advisory committee(s) consulted: Diamond Valley Elementary School site council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 28, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

The district will be using $6,000 in district funds for this annual field trip.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 2: Trip Expense Detail (1 page) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver

Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **San Luis Coastal Unified School District** to waive portions of *Education Code (EC)* Section 51222, related to the statutory minimum of 400 minutes of physical education required each ten school days for students in grades nine through twelve in order to implement a block schedule at **San Luis Obispo High School**. Waiver Number: 52-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

This waiver meets all seven of the criteria cited in State Board of Education (SBE) Waiver Policy 99-03 and the California Department of Education (CDE) recommends approval with the following conditions:

- By March 15, 2008, the district will provide CDE with units of instruction, assessment strategies, and evaluation data for instructional units in aquatics and tumbling to provide evidence that the district has developed and is implementing physical education courses that provide each high school student with required course content in the following areas: (1) the effects of physical activity upon dynamic health; (2) mechanics of body movement; (3) aquatics; (4) gymnastics and tumbling; (5) individual and dual sports; (6) rhythms/dance; (7) team sports; (8) combatives (may include self defense).

- The district monitors students' maintenance of a personal exercise program during the weeks the student is not participating in a physical education course.

- All grade nine students are prepared for and participate in the physical performance testing program during the months of February, March, April, or May as specified in *EC* Section 60800.

- The district has a physical education professional development plan for teachers who deliver instruction in physical education at that school(s).

- The school will offer physical education for 24 weeks in each trimester, for an average of 70 minutes every school day.

- *EC* Section 33051(c) will NOT apply, the district must renew before June 30, 2008.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

SBE Waiver Policy #99-03 establishes criteria for granting waivers related to physical education instructional minutes for the purpose of implementing a block schedule. In July 2006, the SBE approved a revised waiver policy which strengthened the criteria for approval, this waiver meet the policy guidelines.

SUMMARY OF KEY ISSUES

EC Section 51222 established requirements for minimum instructional minutes of physical education, 400 minutes every 10 school days for pupils in grades seven through twelve.

San Luis Obispo High School has implemented a trimester schedule that does not provide each student with physical education instruction for a minimum of 400 minutes every 10 school days. Students are enrolled in physical education for only twenty four weeks of the school year.

The district was granted a previous waiver of EC 51222 for San Luis Obispo High School and is requesting a renewal of that waiver. The district has provided evidence that it meets each of the criteria outlined in SBE Policy # 99-03 for granting a waiver for block scheduling. CDE staff have reviewed and approved all curriculum, monitoring forms and other documents as a part of this waiver analysis.

A school granted a waiver of *EC* Section 51222 in order to implement a block schedule shall be selected to be monitored each cycle as a part of the district's Categorical Program Monitoring (CPM) process. This shall only occur when the district has been identified for a CPM visit by CDE. The California Physical Fitness Test data will be reviewed for school(s) who request a waiver, initially and on request for renewal of the waiver to determine improvement or at minimum, maintenance of students' levels of health-related fitness.

Although the SBE Waiver Policy #99-03 states that the district provides evidence that students are enrolled in courses of physical education a minimum of 18 weeks in 80-90 minute daily class periods during the regular school year, this was based on a typical 4x4 bock schedule. The San Luis Obispo High School has a trimester schedule of 24 weeks instead of 16, therefore the department has agreed that the number of minutes provided each day may be reduced to an average of 70 minutes, every school day for the 24 weeks.

School scheduling changes are a part of the collective bargaining process in the SLCUSD which requires union participation on a school level in regard to schedule changes. Staff at San Luis Obispo High School voted in favor of the trimester block schedule with 78% favoring the schedule.

In spite of this approval vote by site staff, the San Luis Coastal Teachers Association (SLCTA) Executive Board has expressed concerns regarding the waiver request, see Attachment A of the district's General Waiver form. Their issues seem focused on compliance with the very statute that is requested to be waived.

It should be noted that a block schedule impacts all subject areas at the school, the physical education program is just one of many. The reason that the SBE developed the revised waiver policy in July of 2006 was to guide schools and districts who have in a local decision making process, chosen some type of block schedule impacting the physical education statute to come up with a reasonable alternative (through waiver conditions) for student physical health to the statutory requirement to allow local flexibility. In addition, CDE believes that the requirement of the general waiver authority (*EC* 33051(a) (7) for union "participation in the waiver development" had been completed, and that the school level bargaining member support outweighs the management opposition.

The CDE recommends approval of this waiver with the conditions described above, for one additional year only, with a renewal required by June 30, 2008. Technical assistance from the CDE will be available to the district upon request.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2007 – June 30, 2009 (district request). However the department is recommending a period **July 2, 2007 through June 30, 2008** with a renewal required at that time.

Local board approval date(s): April 24, 2007

Public hearing held on date(s): March 20, 2007

Bargaining unit(s) consulted on date(s): SLCTA - March 1, 2007, SEIU – February 20, 2007, CSEA – February 27, 2007

Name of bargaining unit/representative(s) consulted: SLCTA – Bruce Badrigian, SEIU – Frances Hallwood, CSEA – Margaret Geever.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☒ Oppose
Comments (if appropriate): SLTA opposed the waiver request and submitted concerns in writing (Attachment A). SEIU and CSEA supported the waiver request

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other Each of the following bulletin boards: Instructional Services, District, Personnel

Advisory committee(s) consulted: San Luis Obispo High School Management Team

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 21, 2007

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver will have no fiscal impact.

ATTACHMENT(S)

Attachment 1: General Waiver Request (11 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Palm Springs Unified School District** on behalf of a small alternative school for a waiver of *Education Code* (*EC*) Section 52852, to allow a reduction in the number of members required for a school site council (SSC). Waiver Number: 37-4-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

That the SSC be composed of eight members: the principal, two teachers, one other staff member, two members representing parents and two student members.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Waivers of the composition requirements for SSCs have been previously approved under the State Board of Education (SBE) waiver authority for small schools employing fewer classroom teachers than can reasonably meet the minimum number of teacher representatives required by *EC* 52852.

These waivers are limited to schools that are on a School-Based Coordinated Plan approved by their district and are only approved for two-year terms under the waiver authority of *EC* 52863.

SUMMARY OF KEY ISSUES

To meet the composition requirements of *EC* 52852, a secondary school SSC must have twelve members, including the principal, four classroom teachers, one other school employee, three parents and three students.

Ramon Academy only enrolls 103 students and employs four classroom teachers. Approval of this waiver request will allow Ramon Academy to have an SSC composed of eight members: the principal, two teachers, one other staff member, two members representing parents and two student members.

The department recommends approval of this waiver on the above conditions for future composition.

Authority for the Waiver: *EC* 52863

Period of request: September 3, 2006 to September 3, 2008

Local board approval date(s): April 24, 2007

Bargaining unit(s) consulted on date(s): March 15, 2007
Name of bargaining unit(s)/representative(s):
Palm Springs Teachers Association, Ginny Smith, Association President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose
Comments (if appropriate):

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this request would not result in additional costs to the district or to the state.

ATTACHMENTS

Attachment 1: Specific Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Vallejo City Unified School District** to waive the State Testing Apportionment Information Report deadline of December 31st in the *California Code of Regulations (CCR)*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test (CELDT). Waiver Number: 3-5-2007	☒ **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 heard this type of waiver request as the deadline for submission of the State Testing Apportionment Information Reports were added to the *CCR* in 2005 with the approval of the SBE.

SUMMARY OF KEY ISSUES

The regulations for the State Testing Apportionment Information Report were amended in 2005 to include an annual deadline of December 31st for the return of the Apportionment Information Report for prior year testing for the STAR, the CAHSEE and the CELDT. The department sent letters announcing the new deadline in regulations to every local educational agency (LEA) advising them of this important change in the *CCR* in September of 2005. This deadline was enacted to speed the process of final reimbursement of testing costs to the LEAs.

The districts filing for this waiver request missed the deadline for requesting reimbursement due to the district closure during the holiday season or because the staff responsible for this report were new to the job and did not realize that there was a deadline of December 31st for turning in this report. A few districts reported that they did not receive the notice in time to respond to the deadline by December 31st although ninety percent of the LEAs submitted their reports on time. Staff verified that this district needed the waiver and that the district submitted their report before the waiver request was recommended for approval.

These LEAs are now all aware of this important change in the timeline and must submit their reports to the Standard and Assessment Division office for reimbursement. Since

Vallejo City Unified School District has met all of the requirements for the general waiver, the department recommends the approval of this waiver request as required by regulation prior to final reimbursement.

Authority for Waiver: *EC* Section 33050

Period of request: December 31, 2006 to December 31, 2007

Local board approval date(s): April 18, 2007

Public hearing held on date(s): April 18, 2007

Bargaining unit(s) consulted on date(s): March 28, 2007 and April 10, 2007

Name of bargaining unit/representative(s) consulted: California State Employees Association (CSEA), Jim Cubbison, President; Vallejo Employees Association (VEA), Janice Sullivan, 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)
Web site, public postings

FISCAL ANALYSIS (AS APPROPRIATE)

The LEA will not receive the funding to reimburse them for the 2004-05 test administered. If approved, Vallejo City will receive $16,790.00.

ATTACHMENTS

Attachment 1: General Waiver Request (2 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2007 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Sacramento County Office of Education** to waive portions of *Education Code (EC)* sections 35558(a) and 35737, which will then allow a different timeframe for staggering the terms of newly elected members of the governing board of a new unified school district formed from the existing Grant Joint Union High School District (GJUHSD), Del Paso Heights School District (DPHSD), North Sacramento School District (NSSD), and Rio Linda Union School District (RLUSD). Waiver Number: 3-6-2007	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

Recommendation for approval is conditional on the waiver applying only to the governing board of the above unification approved by the State Board of Education (SBE) on March 7, 2007.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has not previously considered a similar waiver request.

SUMMARY OF KEY ISSUES

On March 7, 2007, the SBE adopted a resolution approving the proposed unification of the GJUHSD, the DPHSD, the NSSD, and the RLUSD. This resolution contained a provision specifying that the election for the first governing board of the new unified district will be held at the same time as the election on the unification proposal. The resolution, as required by *EC* Section 35737, further specified the length of the initial terms of the newly elected governing board members so that the governing board will ultimately have staggered terms that expire in years with regular election dates.

Unification proponents are concerned that staggering the initial board members' terms of office, as described in the SBE March 7, 2007, resolution, would create instability in the new district because three trustees would have initial terms of only one year. Sacramento County Office of Education (SCOE) staff researched alternatives to provide for lengthier initial terms and arrived at a solution that can be accomplished in time for the November 2007 election. This solution entails both: (1) waiving portions of two *EC* sections and (2) amending the March 7, 2007, SBE resolution approving the unification

petition (also on this July 2007 agenda). The effect of those actions would be to allow the initial terms of all trustees to be the same (three or four years depending on whether the initial board consolidates future trustee elections with the statewide general election) and to begin the staggering of terms with the second election.

The California Department of Education recommends that the SBE approve the waiver request. By allowing each member of the first governing board of the new unified school district (if approved by the electorate) to serve either a three- or four-year term, the waiver would prevent three members of the governing board of the new unified school district from being required to run for re-election after serving only a year on the board.

Authority for Waiver: *EC* Section 33050

Period of request: 6/13/07 to 12/31/07

Local board approval date(s): June 13, 2007

Public hearing held on date(s): June 13, 2007

Bargaining unit(s) consulted on date(s): 5/29/07 both Sacramento County Office of Education Teachers Association (SCOETA) and California School Employee Association (CSEA)

Name of bargaining unit/representative(s) consulted: SCOETA, Gary Barker and CSEA, Dawn McCArron

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose
Comments (if appropriate): SCOETA is neutral and CSEA is pending

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: 6/13/07

Objections raised (choose one): ☐ None ☐ Objections are as follows:

Date(s) consulted: Not applicable

FISCAL ANALYSIS (AS APPROPRIATE)

There will be no significant cost to the SCOE, any affected district, or the state due to approval of this waiver.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (This attachment is not available for Web viewing. A printed copy is available in the SBE Office or the Waiver Office.)