California State Board of Education

Meeting Agenda Items for November 9-10, 2011

SBE Meeting Contents for November 2011

Contents of the California State Board of Education (SBE) meeting for November 9 and 10, 2011.

Vision, Mission, and Goals

Bylaws

AGENDA

Wednesday, November 9th

Agenda Items

Item	Description
Item 1	2012-2013 State Board of Education Student Member
Item 2	Student Recommendations From SABE Conference
Item 3	Update on Common Core State Standards
Item 4	Update on Next Generation Science Standards
Item 5	ESEA Flexibility Waiver
Item 6	Federal Update
Item 7	ESEA Act: Review of Academic Achievement Progress

Waivers

Item	Description
Item W-1	Attendance Accounting for Multi-Track
Item W-2	Pupil Teacher Ratio
Item W-3	Educational Interpreter for Deaf and Hard of Hearing
Item W-4	State Testing Apportionment Report
Item W-5	Over Limit on Grades K-3
Item W-6	Over Limit on Grades 1-3
Item W-7	Over Limit on Grades 4-8
Item W-8	Over Limit on Grades 4-8
Item W-9	Colocate Facilities and Commingle Grade Levels

Item W-10	Lease of Surplus Property
Item W-11	Bond Indebtedness Limit - Unified after 2000
Item W-12	Educational Interpreter for Deaf and Hard of Hearing
Item W-13	Teacher Experience Index
Item W-14	Class Size Reduction
Item W-15	Teacher Experience Index
Item W-16	Teacher Experience Index
Item W-17	Teacher Experience Index

Thursday, November 10th

Agenda Items (continued)

Item	Description
Item 8	SBE Priorities
Item 9	Annual Performance Report Part B of IDEA for 2010-11
Item 10	Request for Approval of Sonoma COE Charter SELPA
Item 11	Appeal of Decision by San Mateo Co Territory Transfer
Item 12	Consideration of Synergy Charter School Petition
Item 13	STAR Program: Adoption of CMA Performance Standards
Item 14	ESEA: Recommendation of Criteria re Alisal State Trustee
Item 15	Public Comment
Item 16	Appointment of Jason Spencer - Article IX, Section 2.1
Item 17	Revision to 2008-12 CA State Plan for CTE
Item 18	Administrator Training Program: Approval of Applications
Item 19	Approval of 2011-12 Consolidated Applications
Item 20	STAR: Release of 10% Withheld for 2010-11 ETS Contract
Item 21	ESEA: Approval of LEA Plans, Title I, Section 1112
Item 22	Assignment of Numbers for Charter School Petitions

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

Last Modified: Friday, November 04, 2011

Vision, Mission, and Goals

California State Board of Education.

VISION

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

MISSION

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

GOALS

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

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

Last Reviewed: Friday, August 26, 2011

Bylaws

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

ARTICLE I

Authority

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

ARTICLE II

Powers and Duties

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

ARTICLE III

Members

APPOINTMENT

Section 1.

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

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

TERM OF OFFICE

Section 2.

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

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

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

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

EC 33001; 33000.5
GC 1774

VACANCIES

Section 3.

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

EC 33002

STUDENT MEMBER

Section 4.

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

EC 33000.5

COMPENSATION AND EXPENSES

Section 5.

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

EC 33006
GC 11564.5

CONFLICT OF INTEREST CODE

Section 6.

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

2 CCR 18730
5 CCR 18600

ARTICLE IV

Officers and Duties

PRESIDENT, VICE PRESIDENT

Section 1.

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

Section 2.

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

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

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

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

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

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

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

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

EXECUTIVE OFFICER

Section 3.

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

EC 33004

DUTIES OF THE PRESIDENT

Section 4.

The president shall:

- *serve as spokesperson for the Board;*
- *represent the position of the Board to the State Superintendent of Public Instruction;*
- *appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;*
- *serve as ex officio voting member of the Screening Committee and any ad hoc committees, either substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or serving as an additional member with the affected committee's quorum requirement being increased if necessary, provided that in no case shall the service of the president as ex officio voting member increase the total voting membership of a committee to more than five;*
- *preside at all meetings of the Board and follow-up with the assistance of the executive director to see that agreed upon action is implemented;*
- *serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;*
- *serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;*
- *determine priorities for expenditure of Board travel funds;*
- *provide direction for the executive director;*
- *direct staff in preparing agendas for Board meetings in consultation with the other members as permitted by law;*
- *keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues;*
- *and participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation.*

DUTIES OF THE VICE PRESIDENT

Section 5.

The vice president shall:

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

DUTIES OF COMMITTEE CHAIR

Section 6.

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

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

DUTIES LIAISON OR REPRESENTATIVE

Section 7.

A Board member appointed as a liaison or representative shall:

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

DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY

Section 8.

The member shall:

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

ARTICLE V

Meetings

REGULAR MEETINGS

Section 1.

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

EC 33007

SPECIAL MEETINGS

Section 2.

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

OPEN MEETINGS

Section 3.

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

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

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

GC 11120 et seq.

NOTICE OF MEETINGS

Section 4.

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

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

SPECIAL MEETINGS
(ADDITIONAL PROVISIONS)

Section 5.

(a) Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

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

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

EC 33008
GC 11125

EMERGENCY MEETINGS

Section 5.

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

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

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

GC 11125.5
EC 33008
EC 33010

CLOSED SESSIONS

Section 6.

Closed sessions shall be held only in accordance with law.

GC 11126

QUORUM

Section 7.

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

EC 33010

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

ORDER OF BUSINESS

Section 8.

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

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

CONSENT CALENDAR

Section 9.

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

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

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

ARTICLE VI

Committees and Representatives

SCREENING COMMITTEES

Section 1.

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

AD HOC COMMITTEES

Section 2.

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

REPRESENTATIVES

Section 3.

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

ARTICLE VII

Public Hearings: General

SUBJECT OF A PUBLIC HEARING

Section 1.

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

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

5 CCR 18460
EC 33031
GC 11125

COPIES OF STATEMENTS

Section 2.

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

TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY

Section 3.

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

5 CCR 18463
EC 33031

WAIVER BY PRESIDING INDIVIDUAL

Section 4.

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

5 CCR 18464
EC 33031

ARTICLE VIII

Public Hearings: School District Reorganization

SUBMISSION OF PROPOSALS AND PETITIONS

Section 1.

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

officer of the Board. The executive officer of the Board shall cause the proposal or petition to be:

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

CCR 18570

ARGUMENTS BEFORE THE BOARD: ORIGINAL SUBMISSION

Section 2.

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

CCR 18571

RESUBMISSION OF THE SAME OR AN ESSENTIALLY IDENTICAL PROPOSAL OR PETITION

Section 3.

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

CCR 18572

STATEMENTS

Section 4.

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

ARTICLE IX

Public Records

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

GC 6250 et seq

ARTICLE X

Parliamentary Authority

RULES OF ORDER

Section 1.

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

Section 2.

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

Section 3.

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

Section 4.

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

Section 5.

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

ARTICLE XI

Board Appointments

ADVISORY BODIES

Section 1.

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

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

EC 33590

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

EC 33530

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

EC 49533

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

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

OTHER APPOINTMENTS

Section 2.

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

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

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

JPA-FWL

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

EC 8952.5

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

EC 52058.1

SCREENING AND APPOINTMENT

Section 3.

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

ARTICLE XII

Presidential Appointments

LIAISONS

Section 1.

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

(a) The Advisory Commission on Special Education;

(b) The Curriculum Development and Supplemental Materials Commission;

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

(d) The Commission on Teacher Credentialing.

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

EC 66901(d) and (h)

OTHER

Section 2.

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

ARTICLE XIII

Amendment to the Bylaws

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

Abbreviations

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

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

Dates of Adoption and Amendment

Status	Date
Adopted	April 12, 1985
Amended	February 11, 1987
Amended	December 11, 1987
Amended	November 11, 1988
Amended	December 8, 1989
Amended	December 13, 1991
Amended	November 13, 1992
Amended	February 11, 1993
Amended	June 11, 1993
Amended	May 12, 1995
Amended	January 8, 1998
Amended	April 11, 2001
Amended	July 9, 2003

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

Last Reviewed: Friday, October 28, 2011

SBE Agenda for November 2011

Agenda for the California State Board of Education (SBE) meeting to be held on November 9 and 10, 2011.

State Board Members

Michael W. Kirst, President
Trish Williams, Vice President
James Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus
Caitlin Snell, Student Member

Secretary & Executive Officer

Hon. Tom Torlakson

Executive Director

Susan K. Burr

Schedule of Meeting	Location
Wednesday, November 9, 2011 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 95814 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:

- *Alejo, et al.* v. *Jack O'Connell, State Board of Education, et al.,* San Francisco Superior Court, Case No. CPF-09-50968
- *California School Boards Association, et al.* v. *California State Board of Education* and *Aspire Public Schools, Inc.* Alameda Superior Court, Case No. 07353566
- *California School Boards Association and its Education Legal Alliance, et al., v. The California State Board of Education, et al.,* Sacramento County Superior Court, Case No. 34-200800021188-CU-MC-GDS
- *Doe, Jane, and Jason Roe v. State of California, Tom Torlakson, The California Department of Education, The State Board of Education,* Los Angeles Superior Court, Case No. BC445151
- *Emma C., et al.* v. *Delaine Eastin, et al.,* 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
- *K.C. et al. v. Jack O'Connell, et al*., U.S. District Court, Northern District of California, Case No. C 05 4077 MMC
- *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
- *Perris Union High School District* v. *California State Board of Education, California Department of Education, et al.,* Riverside Superior Court Case No. RIC520862
- *Porter, et al.,* v. *Manhattan Beach Unified School District, et al.,* United States District Court, Central District, Case No. CV-00-08402
- *Reed* v. *State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O'Connell, California Department of Education, and State Board of Education, et al*., Los Angeles Superior Court, Case No. BC432420
- *Today's Fresh Start, Inc., v. Los Angeles County Office of Education, et al.,* Los Angeles County Superior Court, Case No. BS112656
- 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, discipline, or release of public employees, or a complaint or charge against public employees. Public employees include persons exempt from civil service under Article VII, Section 4(e) of the California Constitution.

Schedule of Meeting	Location
Wednesday, November 9, 2011 9:00 a.m. Pacific Time ±	**California Department of Education** 1430 N Street, Room 1101

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

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

Schedule of Meeting	Location
Thursday, November 10, 2011 8:30 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 95814 916-319-0827

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

Schedule of Meeting	Location
Thursday, November 10, 2011 8:30 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 95814 916-319-0827

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

ALL TIMES ARE APPROXIMATE AND ARE PROVIDED FOR CONVENIENCE ONLY

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

THE ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

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

REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY

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

CALIFORNIA STATE BOARD OF EDUCATION

FULL BOARD AGENDA
Public Session

November 9, 2011

Wednesday, November 9, 2011 – 9:00 a.m. Pacific Time ±
(Upon adjournment of Closed Session if held)

California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

REPORT OF THE STATE SUPERINTENDENT

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

AGENDA ITEMS

Item 1 (DOC; 50KB; 1p.)

Subject: 2012-2013 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor.

Type of Action: Action, Information

Item 2 (DOC; 52KB; 2pp.)

Subject: Reports from the 2011-2012 Student Advisory Board on Education (SABE).

Type of Action: Action, Information

Item 3 (DOC; 163KB; 16pp.)

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

Type of Action: Action, Information

- Item 3 Attachment 2 (PDF; 118KB; 6pp.)
- Item 3 Addendum (DOC; 53KB; 4pp.)

Item 4 (DOC; 291KB; 13pp.)

Subject: Update on the Next Generation of Science Standards.

Type of Action: Action, Information

Item 5 (DOC; 199KB; 10pp.)

Subject: Elementary and Secondary Education Act: Principles and Requirements for a Waiver of Selected Provisions of the No Child Left Behind Act of 2001 to Implement a Specific Statewide Accountability System for All California Local Educational Agencies in Advance of Elementary and Secondary Education Act Reauthorization.

Type of Action: Action, Information

- Item 5 Addendum (DOC; 134KB; 15pp.)

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

Subject: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs Including, but Not Limited to, the School Improvement Grant and California's Striving Readers Comprehensive Literacy Plan.

Type of Action: Action, Information

- Item 6 Attachment 1 (PDF; 346KB; 2pp.)

Item 7 (DOC; 98KB; 5pp.)

Subject: Elementary and Secondary Education Act: Assignment of Corrective Action and Associated Technical Assistance for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3.

Type of Action: Action, Information

- Item 7 Addendum (DOC; 144KB; 7pp.)
- Item 7 Addendum Attachment 4 (XLS; 113KB; 10pp.)

WAIVERS

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken.

CHARTER SCHOOL PROGRAM (Attendance Accounting for Multi-Track)

Item W-1 (DOC; 91KB; 5pp.)

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

Waiver Numbers:

- Raisin City Elementary 31-8-2011
- Adelanto Elementary 32-8-2011
- Alameda County Office of Education 23-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

(Meets Waiver Policy: Charter School ADA: Alternative Calculation Method [DOC; 76KB; 3pp.])

- Item W-1 Attachment 1 (DOC; 34KB; 1p.)
- Item W-1 Attachment 2 (DOC; 64KB; 2pp.)
- Item W-1 Attachment 3 (DOC; 64KB; 2pp.)
- Item W-1 Attachment 4 (PDF; 103KB; 1p.)
  - Accessible Alternate Version of Item W-1 Attachment 4 *(Coming Soon)*
- Item W-1 Attachment 5 (PDF; 103KB; 1p.)
  - Accessible Alternate Version of Item W-1 Attachment 5 *(Coming Soon)*
- Item W-1 Attachment 6 (DOC; 64KB; 2pp.)
- Item W-1 Attachment 7 (PDF; 854KB; 1p.)
  - Accessible Alternate Version of Item W-1 Attachment 7
- Item W-1 Attachment 8 (PDF; 454KB; 1p.)

CHARTER SCHOOL PROGRAM (Pupil Teacher Ratio)

Item W-2 (DOC; 71KB; 3pp.)

Subject: Request by Alpaugh Unified School District for a renewal to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from 25:1 to a 27.5:1 pupil-to-teacher ratio at Central California Connections Academy Charter School.

Waiver Number: 19-6-2011

(Recommended for APPROVAL)

(Meets Waiver Policy: Independent Study Average Daily Attendance (ADA)-to-Teacher Ratio [DOC; 80KB; 3pp.])

- Item W-2 Attachment 1 (DOC; 69KB; 3pp.)

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

Item W-3 (DOC; 80KB; 4pp.)

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

Waiver Numbers:

- Lemoore for Gail Tackett 9-8-2011
- Lindsay for Brianna Terrill 18-7-2011
- Lindsay for Sara Palmitessa 23-7-2011
- El Dorado for Mary Coburn 24-8-2011
- El Dorado for Susie Paker 25-8-2011
- El Dorado for Michaela Radney 26-8-2011
- Dinuba for Rosa Velasco 10-8-2011
- Dinuba for Eva Martinez 11-8-2011
- Clovis for Roland Hendrix 15-7-2011

(Recommended for APPROVAL WITH CONDITIONS)

(Meets Waiver Policy: Educational Interpreters Not Meeting Regulatory Standards [DOC; 94KB; 3pp.])

- Item W-3 Attachment 1 (DOC; 41KB; 3pp.)
- Item W-3 Attachment 2 (DOC; 57KB; 3pp.)
- Item W-3 Attachment 3 (DOC; 50KB; 3pp.)
- Item W-3 Attachment 4 (DOC; 75KB; 3pp.)
- Item W-3 Attachment 5 (DOC; 81KB; 4pp.)
- Item W-3 Attachment 6 (DOC; 78KB; 3pp.)
- Item W-3 Attachment 7 (DOC; 77KB; 4pp.)
- Item W-3 Attachment 8 (DOC; 84KB; 4pp.)
- Item W-3 Attachment 9 (DOC; 84KB; 4pp.)
- Item W-3 Attachment 10 (DOC; 71KB; 3pp.)
- Item W-3 Attachment 11 (DOC; 71KB; 3pp.)
- Item W-3 Attachment 12 (DOC; 83KB; 4pp.)

STATE TESTING APPORTIONMENT REPORT

Item W-4 (DOC; 82KB; 4pp.)

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

Waiver Numbers:

- Fountain Valley Elementary 2-8-2011
- Orange Unified 7-8-2011
- Soledad Unified 12-8-2011
- East Whittier City 14-8-2011
- Cupertino Union 15-8-2011

(Recommended for APPROVAL)

(Meets Waiver Policy: State Testing Apportionment Informational Report Deadline [DOC; 76KB; 2pp.])

- Item W-4 Attachment 1 (DOC; 47KB; 1p.)
- Item W-4 Attachment 2 (DOC; 52KB; 1p.)
- Item W-4 Attachment 3 (PDF; 33KB; 1p.)
- Item W-4 Attachment 4 (DOC; 59KB; 2pp.)
- Item W-4 Attachment 5 (PDF; 28KB; 2pp.)
- Item W-4 Attachment 6 (DOC; 53KB; 2pp.)
- Item W-4 Attachment 7 (PDF; 29KB; 1p.)
- Item W-4 Attachment 8 (DOC; 52KB; 1p.)
- Item W-4 Attachment 9 (PDF; 35KB; 1p.)
- Item W-4 Attachment 10 (DOC; 54KB; 2pp.)
- Item W-4 Attachment 11 (PDF; 28KB; 1p.)

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

Item W-5 (DOC; 80KB; 4pp.)

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

Waiver Numbers:

- Coachella Valley Unified 8-8-2011
- Lemon Grove 12-7-2011
- Manteca Unified 1-8-2011
- San Marcos Unified 29-6-2011
- South Whittier Elementary 17-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-5 Attachment 1 (XLS; 21KB; 1p.)
- Item W-5 Attachment 2 (DOC; 71KB; 4pp.)
- Item W-5 Attachment 3 (DOC; 78KB; 3pp.)
- Item W-5 Attachment 4 (DOC; 74KB; 3pp.)
- Item W-5 Attachment 5 (DOC; 74KB; 4pp.)
- Item W-5 Attachment 6 (DOC; 81KB; 6pp.)

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

Item W-6 (DOC; 75KB; 3pp.)

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

Waiver Numbers: 6-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-6 Attachment 1 (XLS; 33KB; 1p.)

- Item W-6 Attachment 2 (DOC; 73KB; 4pp.)

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

Item W-7 (DOC; 75KB; 3pp.)

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

Waiver Numbers:

- Lemon Grove 10-7-2011
- South Whittier Elementary 18-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-7 Attachment 1 (XLS; 24KB; 1p.)
- Item W-7 Attachment 2 (DOC; 75KB; 3pp.)
- Item W-7 Attachment 3 (DOC; 82KB; 6pp.)

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

Item W-8 (DOC; 76KB; 3pp.)

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

Waiver Numbers:

- Banning Unified 2-6-2011
- Center Joint Unified 46-6-2011
- Inglewood Unified 45-6-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-8 Attachment 1 (XLS; 19KB; 1p.)
- Item W-8 Attachment 2 (DOC; 76KB; 5pp.)
- Item W-8 Attachment 3 (DOC; 69KB; 3pp.)
- Item W-8 Attachment 4 (DOC; 75KB; 4pp.)

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities and Commingle Grade Levels)

Item W-9 (DOC; 72KB; 3pp.)

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

Waiver Number: Big Valley Joint Unified11-7-2011

(Recommended for APPROVAL)

Waiver Numbers:

- Chaffey Joint Union 13-8-2011
- Chawanakee Unified 20-9-2011
- Corcoran Joint Unified14-7-2011
- Lakeport Unified 13-7-2011
- Lucerne Valley Unified 4-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-9 Attachment 1 (XLS; 37KB; 1p.)
- Item W-9 Attachment 2 (DOC; 68KB; 3pp.)
- Item W-9 Attachment 3 (DOC; 66KB; 2pp.)
- Item W-9 Attachment 4 (PDF; 965KB; 1p.)
- Item W-9 Attachment 5 (DOC; 72KB; 3pp.)
- Item W-9 Attachment 6 (DOC; 75KB; 4pp.)
- Item W-9 Attachment 7 (DOC; 64KB; 3pp.)
- Item W-9 Attachment 8 (DOC; 66KB; 2pp.)

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

Item W-10 (DOC; 70KB; 2pp.)

Subject: Request by two districts, under the authority of California *Education Code* Section 33050, to waive all portions of California *Education Code* sections 17473 and 17474 and portions of 17455, 17466, 17472, and 17475 relating to the sale and lease of surplus property. Approval of these waivers will allow the districts to lease or sell property using a “request for proposal process," thereby maximizing the proceeds from the sale or lease of the properties.

Waiver Numbers:

- Huntington Beach Elementary 16-8-2011
- Orange Unified 19-8-2011
- Orange Unified 20-8-2011
- Orange Unified 21-8-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-10 Attachment 1 (DOC; 43KB; 1p.)
- Item W-10 Attachment 2 (DOC; 79KB; 5pp.)
- Item W-10 Attachment 3 (DOC; 80KB; 5pp.)
- Item W-10 Attachment 4 (DOC; 74KB; 5pp.)
- Item W-10 Attachment 5 (DOC; 73KB; 5pp.)

SCHOOL CONSTRUCTION BONDS (Bond Indebtedness Limit - Unified after 2000)

Item W-11 (DOC; 82KB; 4pp.)

Subject: Request by Twin Rivers Unified School District to waive California *Education Code* sections 15102, 15106,15268,15270(a), to allow the district to exceed its bonding indebtedness limit of 1.25 percent of the taxable assessed value of property and $30 per $100,000 assessed value (requesting 2.50 percent and $60, respectively).

Waiver Number: 14-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-11 Attachment 1 (DOC; 109KB; 7pp.)

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

Item W-12 (DOC; 127KB; 10pp.)

Subject: Request by **Lindsay Unified School District** to waive the *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009. To allow **David Mashtal, Nicholas Cervantes, Kurt Graves,** and **Alex Cervantes** to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum requirements.

Waiver Numbers:

- David Mashtal 19-7-2011
- Nicholas Cervantes 20-7-2011
- Kurt Graves 21-7-2011
- Alex Cervantes 22-7-2011

(Recommended for DENIAL)

- Item W-12 Attachment 1 (DOC; 94KB; 5pp.)
- Item W-12 Attachment 2 (DOC; 94KB; 5pp.)
- Item W-12 Attachment 3 (DOC; 94KB; 5pp.)
- Item W-12 Attachment 4 (DOC; 96KB; 5pp.)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)

Item W-13 (DOC; 73KB; 3pp.)

Subject: Request by four local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act.

Waiver Numbers:

- Cutler-Orosi Joint Unified 126-2-2011
- Dinuba Unified 53-3-2011
- Dinuba Unified 54-3-2011
- Mountain Empire Unified 37-3-2011
- Planada Elementary 61-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-13 Attachment 1 (DOC; 40KB; 2pp.)
- Item W-13 Attachment 2 (DOC; 79KB; 4pp.)
- Item W-13 Attachment 3 (DOC; 44KB; 2pp.)
- Item W-13 Attachment 4 (DOC; 110KB; 4pp.)
- Item W-13 Attachment 5 (DOC; 108KB; 4pp.)
- Item W-13 Attachment 6 (DOC; 41KB; 2pp.)

Item W-13 Attachment 7 (DOC; 92KB; 5pp.)
- Item W-13 Attachment 8 (DOC; 41KB; 2pp.)
- Item W-13 Attachment 9 (DOC; 92KB; 3pp.)

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction)

Item W-14 (DOC; 71KB; 3pp.)

Subject: Request by Chualar Union School District local educational agency to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act.

Waiver Number: 2-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-14 Attachment 1 (DOC; 45KB; 2pp.)
- Item W-14 Attachment 2 (DOC; 70KB; 3pp.)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)

Item W-15 (DOC; 77KB; 3pp.)

Subject: Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from San Fernando Middle School and Lincoln High School to follow identified students who will be transferring to San Fernando Institute of Applied Learning and Leadership in Entertainment and Media Arts to ensure that they will not lose the benefits of the Quality Education Investment Act.

Waiver Number: 71-10-2010

(Recommended for DENIAL)

- Item W-15 Attachment 1 (DOC; 71KB; 3pp.)
- Item W-15 Attachment 2 (XLS; 29KB; 1p.)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)

Item W-16 (DOC; 75KB; 4pp.)

Subject: Request by Los Angeles Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index, Highly Qualified Teacher requirements, and Williams' settlement agreement requirements under the Quality Education Investment Act, so that the full implementation of these programmatic requirements is not required until 2012–13 at Alain LeRoy Locke Charter High School, Animo Locke #1, Animo Locke #2, Animo Locke #3, and Animo Locke ACE Academy.

Waiver Number: 8-5-2011

(Recommended for DENIAL)

- Item W-16 Attachment 1 (DOC; 76KB; 5pp.)
- Item W-16 Attachment 2 (PDF; 607KB; 1p.)
  - Accessible Alternate Version of Item W-16 Attachment 2
- Item W-16 Attachment 3 (PDF; 801KB; 2pp.)

- Accessible Alternate Version of Item W-16 Attachment 3
- Item W-16 Attachment 4 (PDF; 11KB; 3pp.)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)

Item W-17 (DOC; 74KB; 3pp.)

Subject: Request by four local educational agencies to waive California *Education Code* Section 52055.740(a), regarding Teacher Experience Index under the Quality Education Investment Act.

Waiver Numbers:

- Bakersfield City School 83-2-2011
- Chula Vista Elementary 22-4-2011
- Petaluma City Schools 4-4-2011
- San Diego Unified 13-5-2011

(Recommended for DENIAL)

- Item W-17 Attachment 1 (DOC; 44KB; 2pp.)
- Item W-17 Attachment 2 (DOC; 69KB; 3pp.)
- Item W-17 Attachment 3 (DOC; 42KB; 2pp.)
- Item W-17 Attachment 4 (DOC; 63KB; 2pp.)
- Item W-17 Attachment 5 (DOC; 40KB; 2pp.)
- Item W-17 Attachment 6 (DOC; 62KB; 2pp.)
- Item W-17 Attachment 7 (DOC; 40KB; 2pp.)
- Item W-17 Attachment 8 (DOC; 64KB; 2pp.)

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

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

Public Session

November 10, 2011

Thursday, November 10, 2011 – 8:30 a.m. Pacific Time +
(Upon adjournment of Closed Session if held)

California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

REPORT OF THE STATE SUPERINTENDENT

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

AGENDA ITEMS

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

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

Type of Action: Action, Information

- Item 8 Attachment 1 (DOC; 91KB; 3pp.)
- Item 8 Attachment 2 -- Bylaws for the California State Board of Education, amended July 9, 2003
- Item 8 Attachment 3 (DOC; 189KB; 34pp.)

Item 9 (DOC; 390KB; 54pp.)

Subject: Annual Performance Report for Part B of the Individuals with Disabilities Education Act Covering Program Year 2010-11.

Type of Action: Action, Information

Item 10 (DOC; 302KB; 49pp.)

Subject: Request for Approval of Sonoma County Office of Education Charter Special Education Local Plan Area.

Type of Action: Action, Information

Item 11 (DOC; 2.0MB; 75pp.)

Subject: Appeal of a decision by the San Mateo County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Redwood City School District to the Las Lomitas School District in San Mateo.

Type of Action: Action, Information

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

A Public Hearing on the following agenda item will commence no earlier than10:00 a.m. on Thursday, November 10, 2011. The Public Hearing will be held as close to 10:00 a.m. as the business of the State Board permits.

Item 12 (DOC; 88KB; 8pp.)

Subject: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of the Synergy Charter School Petition, Which Was Denied by the Pittsburg Unified School District and

the Contra Costa County Board of Education.

Type of Action: Action, Information, Hearing

- Item 12 Attachment 1 (DOC; 69KB; 2pp.)
- Item 12 Attachment 2 (DOC; 564KB; 48pp.)
- Item 12 Attachment 3 -- Synergy Charter School Petition (Outside Source)
- Item 12 Attachment 4 (PDF; 1.2MB; 42pp.)
- Item 12 Attachment 5 (PDF; 1.9MB; 29pp.)

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

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

A Public Hearing on the following agenda item will commence no earlier than 1:00 p.m. on Thursday, November 10, 2011. The Public Hearing will be held as close to 1:00 p.m. as the business of the State Board permits.

Item 13 (DOC; 115KB; 7pp.)

Subject: Standardized Testing and Reporting Program: Adoption of California Modified Assessment Performance Standards for English–Language Arts in Grades Ten and Eleven, and Geometry.

Type of Action: Action, Information, Hearing

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

Item 14 (DOC; 224KB; 11pp.)

Subject: Elementary and Secondary Education Act: Recommendation for Adoption of the Exit Plan Regarding the State Trustee in Alisal Union Elementary School District.

Type of Action: Action, Information

Item 15 (DOC; 56KB; 1p.)

Subject: 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: Action, Information

Item 16 (DOC; 99KB; 7pp.)

Subject: Appoint Jason Spencer to a Position in Accordance with Article IX, Section 2.1, of the Constitution of the State of California.

Type of Action: Action, Information

Item 17 (DOC; 55KB; 2pp.)

Subject: Revision to the 2008–12 California State Plan for Career Technical Education (State Plan) to allow for the establishment of a Reserve Fund for use by the Community College.

Type of Action: Action, Information

Item 18 (DOC; 283KB; 9pp.)

Subject: The Administrator Training Program, formerly Assembly Bill 430 (Chapter 364, Statutes of 2005): Approval of Applications for Funding from Local Educational Agencies.

Type of Action: Action, Information

Item 19 (DOC; 176KB; 8pp.)

Subject: Approval of 2011–12 Consolidated Applications.

Type of Action: Action, Information

Item 20 (DOC; 150KB; 9pp.)

Subject: Standardized Testing and Reporting Program: Release of 10 Percent Withheld for 2010–11 Educational Testing Service Contract.

Type of Action: Action, Information

Item 21 (DOC; 168KB; 6pp.)

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

Type of Action: Action, Information

Item 22 (DOC; 74KB; 4pp.)

Subject: Assignment of Numbers for Charter School Petitions.

Type of Action: Action, Information

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

For more information concerning this agenda, please contact the State Board of Education at 1430 N Street, Room 5111, Sacramento, CA, 95814; telephone 916-319-0827; 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: Friday, November 04, 2011

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
2012-2013 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

On Monday, November 8, 2011, the State Board Screening Committee will interview the six candidates selected by the Student Advisory Board on Education (SABE) from the initial set of 12 semi-finalists. The list of three finalists recommended by the Screening Committee will be provided as an Item Addendum.

RECOMMENDATION

The State Board of Education's (SBE) Screening Committee recommends that the State Board of Education approve the three finalists for the position of 2012-2013 SBE Student member, as identified in the Item Addendum. The approved finalists will be forwarded to the Governor for his consideration. The Governor will appoint one of the three finalists who will then serve as the 2012-13 SBE Student member.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In keeping with the requirements of California *Education Code* Section 33000.5(e)(5), the State Board selects three finalists from six candidates for the position of Student Member for the forthcoming year. The three finalists will be presented to the Governor who will appoint one of them to serve as the 2012-2013 Student Member.

FISCAL ANALYSIS (AS APPROPRIATE)

None.

ATTACHMENT(S)

An Item Addendum will contain information about the semi-finalists, the six candidates interviewed by the screening committee, and the three finalists recommended by the SBE Screening Committee.

ITEM #02

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Reports from the 2011-2012 Student Advisory Board on Education (SABE).	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The 2011-12 Student Advisory Board on Education (SABE) Conference will be held in Sacramento from November 5-9, 2011, which will culminate in the oral presentations to the State Board of Education (SBE) on the morning of Wednesday, November 9, 2011. Each of the presentations will focus on an issue chosen by student representatives, and will reflect research and discussion that occurred during the SABE Conference.

RECOMMENDATION

Listen to reports from the 2011-2012 SABE Conference.

BRIEF HISTORY OF KEY ISSUES

The SBE receives annual SABE reports. The California Department of Education (CDE) and SBE staff, working with the SBE's Student Member, may review and develop responses to the SABE proposals, which may then be considered at a future SBE meeting.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

On November 10, 2010, student delegates of SABE presented recommendations to the SBE for its consideration on the following topics:

- California Association of Student Councils (CASC) 2020
- Teacher Effectiveness
- Students' Rights
- Life Preparation
- Incentives for Outstanding Students
- Innovative Approaches to Teaching

The CDE provided an analysis of the student recommendations for the January 2011 SBE agenda; however, the item was not considered. The information may be found at: January SBE 2011 Agenda Item 17.

FISCAL ANALYSIS (AS APPROPRIATE)

None.

ATTACHMENT(S)

Student representatives will provide a handout of student reports to members of the State Board at the time of their oral presentation.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

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

SUMMARY OF THE ISSUE(S)

California *Education Code* Section 60605.8 (h) requires the State Superintendent of Public Instruction (SSPI) and the State Board of Education (SBE) to present a schedule and an implementation plan to the governor and the appropriate policy and fiscal committees of the California State Legislature for integrating the Common Core State Standards (CCSS) into the state educational system. This agenda item is the third in a series of regular updates.

RECOMMENDATION

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

BRIEF HISTORY OF KEY ISSUES

When the SBE adopted the CCSS with additions in August of 2010, these standards became the current subject-matter standards in English language arts and mathematics. The full implementation of these standards will occur over several years as a new system of CCSS-aligned curriculum, instruction, and assessment is developed. New tools to support the system are important; professional learning support modules, curriculum frameworks, instructional materials, and assessment tools are all key components. However, in addition to the tools, successful implementation requires that California's diverse educational stakeholders work in concert to achieve the shared objective of preparing every student for success in college and career.

The CDE is currently developing a comprehensive CCSS Systems Implementation Plan. To facilitate the development and coordination of the plan and its implementation, the CDE has created an Integrated Action Team (IAT) comprised of six members from across CDE branches and SBE staff. The IAT will utilize information from internal and external stakeholders to create a statewide plan for CCSS systems implementation that

BRIEF HISTORY OF KEY ISSUES (Cont.)

represents the joint strategic vision of the SBE and the CDE. The team will also monitor and facilitate the progress of plan implementation, designing systems for collaboration and clear communication between all of California's stakeholders and identifying areas for further work and policy development.

The July 2011 SBE item included a brief timeline of "Proposed Activities for Implementing the Common Core State Standards–California 2010–16." The plan currently being developed will place these activities into a larger context, describing the philosophy of and strategies for the successful integration of new kindergarten through grade twelve (K–12) academic content standards into a system that extends both well before and far beyond these grade levels to support student success in college and career. The CCSS Systems Implementation Plan will be designed to evolve in response to the needs of educational practitioners and the students themselves.

Implementation activities included in the plan will be organized using the seven guiding strategies found in Attachment 1. The CCSS IAT is facilitating the process of elaborating upon the seven guiding strategies with various stakeholders in order to gain vital feedback for the development of the plan, and the process of refining the description of work is continuing. The CDE anticipates a presentation of this proposed CCSS Systems Implementation Plan to the SBE at the January 2012 meeting.

In the meanwhile, the CDE continues to be engaged in many activities designed to prepare the state's educational stakeholders for full implementation of a system that supports student attainment of the CCSS, as described in Attachment 3.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

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

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

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

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

SUMMARY OF PREVIOUS (Cont.)

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

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

FISCAL ANALYSIS (AS APPROPRIATE)

The cost of implementing the CCSS is significant, but will be offset by the improved efficiencies, benefits of shared costs with other states, and the shifting of current costs to CCSS activities. Currently, the CDE is providing professional learning support via webinars and presentations and is providing ongoing guidance to the field for transitioning to the CCSS. In addition, current efforts will be redirected to support the implementation of the CCSS, especially in the area of professional learning support. In terms of instructional materials, costs will span multiple years but will be offset by access to a national market of materials and greater price competition. Nonetheless, the implementation of new standards assessments, the development and implementation of new accountability measures, local and statewide professional learning support, the development of new curriculum frameworks, and the review and acquisition of new instructional materials will require a refocusing of efforts, shifting and infusion of new resources.

ATTACHMENT(S)

Attachment 1: Common Core State Standards Systems Implementation Plan: Seven Guiding Strategies (1 Page)

Attachment 2: Common Core State Standards Systems Implementation Plan PowerPoint Presentation (6 Pages)

Attachment 3: Programmatic Highlights (3 Pages)

Attachment 4: Common Core State Standards Systems Implementation-Legislative Update (2 Pages)

Attachment 5: Implementing Common Core State Standards-Related Legislation (2 Pages)

Attachment 6: August 23, 2011 Common Core State Standards and Assessment Transition Planning Meeting: Summary of Outcome (4 Pages)

ATTACHMENT(S) (Cont.)

Attachment 7: California Department of Education SMARTER Balanced Assessment Consortium (SBAC) English Language Arts (ELA) and Mathematics Content Specifications Survey Feedback Reviews Summary will be provided as an item addendum.

Common Core State Standards Systems Implementation Plan

Seven Guiding Strategies

These strategies describe the major areas of work needed to implement a system that supports student attainment of the Common Core State Standards (CCSS). Implementation activities included in the California Department of Education's forthcoming plan will be organized into these seven areas.

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

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

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

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

5. Collaborate with the postsecondary and business communities to ensure that all students are prepared for success in college and career

6. Seek, create, and disseminate resources to support stakeholders as CCSS systems implementation moves forward

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

Programmatic Highlights

The following list highlights current California Department of Education (CDE) activities regarding Common Core State Standards (CCSS) systems implementation.

Curriculum Frameworks and Instructional Resources

- The Review of Supplemental Instructional Materials is currently in the first phase wherein CDE Education Programs Consultants are reviewing the standards maps and adopted materials of participating publishers for alignment to the CCSS. The CDE anticipates bringing to the State Board of Education (SBE) at the January 2012 meeting, the proposed evaluation criteria for the supplemental materials to be submitted by publishers of both adopted and non-adopted materials, as is required by *EC* Section 60605.86 established by the passage of SB 140. Additional information is available on the CDE's Superintendent's Supplemental Materials Review Web page at http://www.cde.ca.gov/ci/cr/cf/suptsupmatreview.asp.

- AB 250 (2011, Brownley), recently signed by the Governor, requires the SBE to adopt a new CCSS-based mathematics framework by May 30, 2013, and a new framework in language arts by May 30, 2014. Attachment 5 provides a timeline of activities and items the CDE will bring to the SBE for consideration.

English Learner Support

- Assembly Bill 124 (2011, Fuentes), recently signed by the Governor, calls for the State Superintendent of Public Instruction (SSPI) to consult a group of English Language Development (ELD) experts and to update, revise, and align the ELD standards to California's newly-adopted CCSS English-language Arts (ELA) standards. The law requires the SSPI to present the recommended new ELD standards on or before August 31, 2012, and the SBE to adopt, reject, or revise the proposed ELD standards by September 30, 2012.

Professional Learning Support

- The Professional Learning Support Division (PLSD) has been researching nationwide and statewide resources for supporting teachers in transitioning to the CCSS in ELA and Mathematics. Using feedback from stakeholders at the August 23, 2011, Common Core State Standards Transition meeting, the PLSD is creating guidelines for professional development modules to best serve California teachers. The professional learning modules will be based on the Learning Forward (formerly National Staff Development) standards and California Standards for the Teaching Profession.

- The PLSD has also repurposed the CDE Professional Development Web page to house training opportunities sponsored by the County Offices of Education (COE), Local Educational Agencies (LEA), institutes of higher education (IHE),

and SBE approved providers, as well as other not-for-profit agencies. COEs, LEAs, the CDE, IHEs, SBE approved providers, and other not-for-profit agencies will be able to input their professional development opportunities into the statewide professional development Web page. This newly repurposed Web page will assist teachers to locate professional learning opportunities for transitioning to the CCSS.

- AB 250 requires the SSPI to collaborate with many stakeholders, including teachers, to develop guidelines for a series of professional learning modules. These modules will be based upon the California Standards for the Teaching Profession and the National Staff Development Council's standards for professional development to deepen the understanding of teachers and principals on various topics including the CCSS and strategies to support the learning of pupils, including English learners, pupils with disabilities, and underperforming pupils.

Career and College Transition

- SSPI Tom Torlakson convened the California Education Round Table (Round Table) on October 6, 2011. This informal association is comprised of the chief executives of the CDE, the University of California, the California State University, the California Community Colleges, and the Association of Independent California Colleges and Universities. SBE President Michael Kirst was invited to attend and participate in this meeting. The agenda for the meeting included an update on the status of the CCSS and the next-generation, standards-based assessments. In addition, during mid-October 2011, the CDE conducted extended individual briefings on the same topic for the senior leadership of each of the segments.

Assessment Development and Administration

- On August 23, 2011, stakeholders across the state representing advocacy groups, local educational agencies, superintendents, teachers, parent organizations, legislative committees, business organizations, and other stakeholders were invited to discuss the CDE's implementation activities. Approximately 100 participants attended the CCSS and Assessment Transition Planning Meeting held in Sacramento, California. Participants were divided into five working groups and engaged in facilitated discussions on the design of transition plans for the CCSS and the new assessment system. Each group focused on the same areas: curriculum and instructional materials, professional learning and teacher preparation, and assessment. The discussion outlined three key areas that CDE should focus on including creating an implementation plan with specific steps, developing a comprehensive communication plan that incorporates a variety of strategies designed to target the information needs of stakeholder groups, and determining multi-faceted strategies for identifying and addressing equity issues throughout the state.

Additional stakeholder meetings are anticipated over the next three years. The summary of the outcomes of this meeting is provided as Attachment 6.

- The annual Assessment and Accountability Information meetings were held on September 27, 2011, in Sacramento and October 4, 2011, in Ontario, California. The agenda included an update on the SMARTER Balanced Assessment Consortium (SBAC) by Tony Alpert, SBAC Chief Operating Officer, at the meeting in Sacramento and by Joe Willhoft, SBAC Executive Director, at the meeting in Ontario. The archived webcasts and presentations will be listed on the CDE Web page at http://www.cde.ca.gov/ta/tg/sa/infomeeting.asp.

- In August and September 2011, approximately 15 experts from our CDE SBAC work groups reviewed and offered feedback on the SBAC Draft English Language Arts (ELA) and Literacy and Mathematics Content Specifications. Attachment 7 will provide a summary of the CDE Content Specifications Survey Feedback Reviews.

- AB 250 (2011, Brownley), requires the SSPI to develop recommendations for the reauthorization of the statewide pupil assessment program which includes a plan for transitioning to a system of high-quality assessments. The CDE must consult with stakeholder groups in developing recommendations that will be reported to the fiscal and appropriate policy committees of both houses of the legislature on or before November 1, 2012. The bill extends the Standardized Testing and Reporting Program by one additional year to become inoperative on July 1, 2014, and would repeal the act as of January 1, 2015. Attachment 5 provides a timeline of activities and items the CDE will bring to the SBE for consideration.

Improvement and Accountability

- As part of CDE's work to support districts as they initiate implementation of the CCSS, CDE staff, in collaboration with others, are reviewing and will be updating our current program self-evaluation tools. These include the Academic Program Survey of Essential Program Components for Instruction at the school level, the District Assistance Survey, which assesses district support of the Components at the district level and associated instruments for support of English Learners and Students with Disabilities. All four of these instruments are currently required of districts in Program Improvement. However, over time, we will update and/or replace these instruments with district and school self-evaluation tools as needed to support CCSS implementation.

Common Core State Standards System Implementation Legislative Update

This legislative update highlights bills that affect Common Core State Standards (CCSS) systems implementation. Inclusion in this list does not constitute a State Board of Education or California Department of Education position for the legislation unless specifically noted.

State Superintendent of Public Instruction Sponsored Bills

AB 124 (Fuentes) – English Language Content Standards

This State Superintendent of Public Instruction (SSPI) co-sponsored legislation establishes the English Language Development Standards Advisory Committee responsible for updating, revising, and aligning the English Language Development (ELD) standards with the common core English-language arts academic content standards recently approved by the SBE. In addition, AB 124 requires the SBE to either adopt or reject the revised ELD standards by September 30, 2012, and include teachers and administrators with expertise in instructing English learners in the membership of the committee.

AB 124 was signed by the Governor on October 8th, 2011, and was chaptered by the Secretary of State as Chapter Number 605, Statutes of 2011.

AB 250 (Brownley) – Curriculum Frameworks

This SSPI-sponsored legislation establishes a process to begin implementation of the common core academic content standards through the development of curriculum frameworks and professional development aligned with the common core English-language arts and mathematics standards.

The bill requires the SBE to adopt a new CCSS-based mathematics framework by May 30th, 2013, and a new framework in English-language arts by May 30, 2014. This bill extends the operative date of the state's assessment system by one year – from July 2013 to July 2014 – continuing the existing Standardized Testing and Reporting (STAR) assessment system until July 2014, and gives the Legislature the opportunity to examine common assessment initiatives. This bill requires the SSPI, by November 1, 2012, to make recommendations to the fiscal and appropriate policy committees of both houses of the Legislature in consultation with the SBE and a wide range of stakeholders regarding a plan for transitioning to a system of high-quality assessments that are aligned to CCSS and provides a definition of high-quality assessments.

AB 250 was signed by the Governor on October 8th, 2011, and was chaptered by the Secretary of State as Chapter 608, Statutes of 2011.

Other Bills of Interest to the State Board of Education

AB 1246 (Brownley) – Instructional Materials
This legislative vehicle is planned for a two-year bill on instructional materials adoption.

AB 1246 is currently in the Assembly Education Committee, designated as a two-year bill for the 2012 legislative session.

SB 140 (Lowenthal) – Instructional Materials
This bill requires the CDE, on a one time basis, to develop a list, on or before July 1, 2012, of supplemental instructional materials (SIMs) for use in kindergarten through seventh grade that are aligned with California's common core academic content standards in mathematics, and for use in kindergarten through eighth grade that are aligned with California's common core academic content standards in English-language arts. It also requires the SBE to approve or reject the list of SIMs developed by the CDE by September 30, 2012. This measure ensures that SIMs provide a bridge between the common core academic content standards and the instructional materials currently being used by local educational agencies.

The SSPI had a "Support" position on this bill.

SB 140 was signed by the Governor on October 8th, 2011, and was chaptered by the Secretary of State as Chapter 623, Statutes of 2011.

Implementing Common Core State Standards-Related Legislation

The following is additional detail on the timeline and specific steps for implementing Senate Bill 140 and Assembly Bill 250.

SENATE BILL 140

Supplemental Instructional Materials Review Process
CDE staff reviews publisher-submitted standards maps for existing state-adopted instructional materials programs
Recruitment of reviewers
SBE approval of evaluation criteria for the review
SBE approves reviewers
Publishers submit supplemental instructional materials
Reviewer training
Independent review of submitted instructional materials
Reviewer deliberations
Public meeting to receive comment
State Superintendent of Public Instruction reports on supplemental instructional materials
SBE acts on materials

ASSEMBLY BILL 250

Curriculum Frameworks and Instructional Resources Division

Date	Curriculum Frameworks Timeline: Mathematics
2012	SBE approves plan, timeline, Curriculum Framework and Evaluation Criteria Committee (CFCC) application
2012	4 focus groups of educators held to solicit input on revision of the framework
2012	SBE appoints CFCC, approves guidance
2012–13	CFCC work: 6 meetings
2013	Two required 60-day public reviews
2013	SBE action

Date	Curriculum Frameworks Timeline: English Language Arts
2012	SBE approves plan, timeline, CFCC application
2012	4 focus groups of educators held to solicit input on revision of the framework
2012	SBE appoints CFCC, approves guidance
2013	CFCC work: 6 meetings
2013–14	Two required 60-day public reviews
2014	SBE action

Professional Learning Support Division

Date	Professional Learning
2012	Compile a list of existing state and national professional learning activities
2012	Refine existing professional learning site to better communicate activities aimed at the transition to CCSS
2012	Conduct needs assessment of field to determine professional learning needs
2012	Develop priorities for professional learning needs to implement CCSS
2012	Establish design team to develop guidelines for PD modules based on Learning Forwards Standards for Professional Development and CSTPs
2012	Develop first set of modules (4-6)
2012–13	Conduct evaluation of effectiveness of modules

Date	Teacher Preparation
2012	Review teacher preparation requirements for each certificate by CTC
2013	Review Teacher Performance Expectations by CTC
2013–14	Translate new requirements to Teacher Preparation Program Requirements for implementation
2013–14	Review the BTSA Induction process for possible inclusion of new ideas related to the CCSS

Assessment Development and Administration Division

Date	Assessment Transition Plan
2012	Stakeholder meetings completed
2012	Draft report to SBE for final input
2012	Report due to Legislature on November 1, 2012
2013	Contractor begins work for final 2014 Standardized Testing and Reporting (STAR) Program test administration

August 23, 2011 Common Core State Standards and Assessment Transition Planning Meeting: Summary of Outcomes

Introduction

On behalf of State Superintendent of Public Instruction Tom Torlakson and the State Board of Education (SBE) President Michael Kirst, a Common Core State Standards (CCSS) and Assessment Transition Planning Meeting was held on August 23, 2011, in Sacramento, California.

The purpose of this meeting was to work with stakeholders from across the state to contribute to the development of a transition plan for implementing the CCSS and moving into a new set of state assessments. The CCSS and Assessment Transition Planning Meeting included an update on the CCSS and an overview of the SMARTER Balanced Assessment Consortium (SBAC). There were approximately 100 participants, which included a diverse population representative of teachers, district administrators, site administrators, county superintendents, governmental affairs and State Board of Education staff/members, Regional Assessment Network members from county offices of education, Technical Advisory Group (TAG) members, Technical Design Group (TDG) members, organization representatives, and California Department of Education (CDE) staff. The goal was to use the input generated at this meeting to help in the formulation of a transition plan. Below is a summary of the findings from all representative groups.

Summary of Key Points

Participants were divided into five working groups and engaged in facilitated discussions on three key areas: curriculum and instructional materials, professional learning and teacher preparation, and assessment. Feedback was elicited to identify resources local educational agencies (LEAs) need to move forward in the transition and suggestions for improving communications to stakeholders.

Curriculum and Instructional Materials

The need for a transition plan with specific implementation steps, a calendar for implementation activities, and annual goals was expressed by all the groups. An ideal plan would specify key responsibilities for the CDE and the field. In addition, putting a statewide evaluation system in place would ensure equity in the transition implementation.

Also identified was the need for a central repository or system to house and make available materials, supplemental materials, updates, and other information related to the Common Core implementation. Most groups felt that more flexibility in the selection process was essential as local LEAs start looking at materials and supplementary materials for implementing the Common Core.

The development of a communication plan designed to meet the information needs of all stakeholder groups (i.e., teachers, administrators, school boards, parents, community leaders, and business/industry) was emphasized. Most groups pointed to the use of county offices of education and other on-the-ground organizations to extend communications in the field. The need for translations of all communications for parents, Listservs, Webinars, and similar types of venues for dialogue, in addition to the CDE Web site, also was noted. The groups emphasized that it would be beneficial if the CDE Web site was more user-friendly (easier to navigate).

Funding for materials, equipment, training, and other resources required of LEAs to implement the CCSS was identified as a major concern.

Professional Learning and Teacher Preparation

The need to provide teachers with forums to share instructional practices and have grade level discussions with colleagues in their schools, within their districts, and across regions was emphasized. Multiple vehicles for communications and dialogue for professional learning were also identified, including Webinars, Listservs, phone trees, and social media strategies (Twitter and Facebook). The establishment of a clearing house for LEAs to share training materials for professional learning also was mentioned.

Having professional learning modules highlighting key instructional practices (with modeling) to support teachers in their implementation of the CCSS in their classrooms was suggested. Identified topics to address in the modules could include basic information about the CCSS, differences between the current standards and the CCSS, the implementation stepping stones for teachers, the alignment to college and career readiness, mathematics content, and the complexities of the literary focus on non-fictional, and technical writing.

In addition, the use of professional training programs currently in place (i.e., Beginning Teacher Support and Assessment [BTSA], teacher induction programs, and subject matter projects) to help LEAs provide professional learning and teacher preparation activities for the CCSS implementation was suggested. Identifying what colleges and universities are doing in this regard also was noted. In addition, some groups identified the need for support for teachers of English learners and students with special needs.

Assessments

A need for the development of some type of field implementation work plan that specifies the goals to be accomplished annually by LEAs and specific steps for reaching the 2014 implementation goal was outlined. A quarterly report to highlight what has been accomplished and what still needs to be done would be beneficial. Up-to-date information about computer adaptive testing with examples of this testing format could be included in the reports, for explicit details about the assessments are essential for

teachers. In addition, the CDE and SBAC could identify current research work from a variety of resources (e.g., corporations, LEAs, assessment experts) that could be used to address various issues related to the new assessment system.

The need to communicate key components of the Standardized Testing and Reporting (STAR) Program reauthorization to the field, including what will be different and what will remain the same, was emphasized. Groups also noted that a description of all the test components of the new assessment system and how this system relates to the reauthorized STAR Program is important. It would be beneficial if this information included a cross walk of what will change, including the connection with the California High School Exit Examination (CAHSEE) and the Early Assessment Program (EAP).

Overall, there is confusion, and/or lack of knowledge in the field about the different test components in the SBAC system (i.e., summative, formative, and interim tests). Communication and clarification on all aspects of the next assessment system would be useful for the field.

There are many concerns and questions about computer adaptive testing and the need for equipment, materials, information, and training. The equity issue related to differing levels of technology available in schools to address this testing format also was discussed. In addition, budgetary concerns for LEAs were noted with an expressed need for multi-year projections of the equipment and materials that will be required to implement the new assessments.

Conclusion

Suggested actions that encompass all the feedback from curriculum and instructional materials, professional learning and teacher preparation, and assessment breakout sessions are outlined as follows:

An implementation plan with specific steps for transitioning to the CCSS and the new assessment system statewide would be valuable to the field. It would help if the plan outlined the roles and responsibilities for the CDE and LEAs, and identified steps for implementation of the CCSS, the new assessment system, and professional learning and teacher training. Key components of the plan could include annual goals, identified implementation activities, and a calendar of key events. Classroom teachers ought to be brought into each facet of the planning and implementation process.

The development of a communication plan that incorporates a variety of strategies, designed to target the information needs of stakeholder groups would be advantageous. Targeted audiences could include but not be limited to teachers, administrators, school boards, parents, community leaders, business/industry, institutions of high learning, and state education organizations. Communication strategies could utilize various forums and technologies for providing ongoing communication, including the CDE Web site, Listservs, Webinars, e-mail, social media, and other venues for open dialogue.

Communication and clarification about all aspects of the new assessment system, including the reauthorization of the STAR Program, should be a high priority.

Multi-faceted strategies for identifying and addressing equity issues throughout the state could be incorporated into all facets of implementation, planning, and communication. A primary issue to be addressed is the differing levels of technology and equipment currently available in schools, which will be needed tor computer adaptive testing and reporting. Another issue is the specialized training needed for teachers in low income schools to ensure they are able to provide appropriate instruction for the higher level skills incorporated in the CCSS.

Common Core State Standards Systems Implementation Plan

CALIFORNIA DEPARTMENT OF EDUCATION
Tom Torlakson, State Superintendent of Public Instruction

COMMON CORE STATE STANDARDS CALIFORNIA

TOM TORLAKSON
State Superintendent
of Public Instruction

Plan Overview

- Grounded in the Mission of the California Department of Education and the recommendations included in *A Blueprint for Great Schools*
- Constructed upon three foundational beliefs
  - Successful implementation requires the active engagement of all stakeholders
  - Sustainable change occurs in the context of a continuous learning process
  - Systems provide coherence and foster a culture of collaboration and accountability

TOM TORLAKSON
State Superintendent
of Public Instruction

Plan Overview

- Designed to incorporate inputs from all of California's education stakeholders
- Implementation activities are described in the context of seven overarching statements that are designed to provide a framework for everything we do-the seven guiding strategies

3

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

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

4

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

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

5

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

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

6

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

4. Collaborate with the postsecondary community to ensure that all students are prepared for success in college and career.

7

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

5. Collaborate with parents and the early childhood and extended learning communities to integrate the CCSS into programs and activities beyond the K-12 school day.

8

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

6. Seek, create, and disseminate resources to support stakeholders as CCSS systems implementation moves forward.

9

TOM TORLAKSON
State Superintendent
of Public Instruction

Seven Guiding Strategies

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

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TOM TORLAKSON
State Superintendent
of Public Instruction

Contact Us

commoncoreteam@cde.ca.gov

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ITEM ADDENDUM

DATE: November 3, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 03– Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of Common Core State Standards Systems.

Summary of Key Issues

In August and September 2011, approximately 15 experts from the California Department of Education (CDE) SMARTER Balanced Assessment Consortium (SBAC) work groups reviewed and offered feedback on the SBAC Draft English Language Arts and Literacy and Mathematics Content Specifications. Attachment 7 provides a summary of the CDE Content Specifications Survey Feedback Reviews.

Attachment(s)

Attachment 7: California Department of Education (CDE) SMARTER Balanced Assessment Consortium (SBAC) English Language Arts (ELA) and Mathematics Content Specifications Survey Feedback Reviews Summary (3 Pages)

California Department of Education (CDE)
SMARTER Balanced Assessment Consortium (SBAC) English Language Arts (ELA) and Mathematics Content Specifications Survey Feedback Reviews

Summary

CDE SBAC ELA Specification Survey Feedback (Rounds 1 and 2)
August 29, 2011 and September 26, 2011

Five Major Claims for SBAC Assessments of the Common Core State Standards for ELA and Literacy in History/Social Studies, Science, and Technical Subjects

Claim #1 - Students can read closely and critically to comprehend a range of increasingly complex literary and informational texts.

Claim #2 - Students can produce effective writing for a range of purposes and audiences.

Claim #3 - Students can employ effective speaking and listening skills for a range of purposes and audiences.

Claim #4 - Students can engage appropriately in collaborative and independent inquiry to investigate/research topics, pose questions, and gather and present information.

Claim #5 - Students can skillfully use and interpret written language across a range of literacy.

General comments on the overall approach used and/or the five claims for ELA/Literacy described in the SBAC ELA Specifications document are summarized as follows:

The SBAC ELA specifications are well aligned to Common Core State Standards (CCSS) however the current version of the specifications only addresses three grades. The descriptions of the claims are concise yet cover an immense amount of content to be assessed. From an instructional perspective, the approach of this document is excellent; from an assessment perspective, however, there are concerns about operationalizing the proposed approach. The CDE SBE workgroup staff identified the following items as needing additional consideration:

- Standardization of the proposed assessments.
- Breadth, depth, and complexity of academic language skills and functions.

- Use of Artificial Intelligence (AI) for scoring.
- Assessments intrusion on instructional time (i.e., performance tasks).
- Inclusion of listening and speaking skills on ELA assessment.
- Issues related to reading text in order to gather and present information.
- Issues associated with scoring collaborative tasks.
- Issues associated with combining oral and writing skill in one reporting cluster.
- Issues associated with access.

CDE SBAC Mathematics Specification Survey Feedback (Round 1)

September 19, 2011

Four Major Claims for the SBAC assessments of the CCSS for Mathematics

Claim #1 - Students can explain and apply mathematical concepts and carry out mathematical procedures with precision and fluency.

Claim #2 - Students can frame and solve a range of complex problems in pure and applied mathematics.

Claim #3 - Students can clearly and precisely construct viable arguments to support their own reasoning and to critique the reasoning of others.

Claim #4 - Students can analyze complex, real-world scenarios and can use mathematical models to interpret and solve problems.

General comments on the overall approach used and/or the four claims for mathematics described in the SBAC Mathematic Specifications document are summarized as follows:

The general considerations are all laudable, particularly the call to make clear and intelligent content priorities in assessment. The statement on judicious coverage of the CCSS gives a very high-level idea of how high priority content should be approached, but it is unclear with respect to identifying priority content within a standard and grade level. The current version of the specifications only addresses three grades. The CDE SBAC workgroup staff identified the following items as needing additional consideration:

- Identify priority content within a standard and grade level.

- Identify a manageable number of constructs along which the assessment can spread test-takers and vertically align with adjacent grade-levels.

- Identify subject matter that is a good candidate for technology-enhance items.
- Assessments intrusion on instructional time (e.g., performance tasks, scenarios).
- Item types that will insure representative coverage of the learning that compose the standards.

SBAC Mathematics Specification Survey Feedback (Round 2) release for comment was delayed until mid-November at the time of this posting.

California Department of Education
Executive Office
SBE-003 (REV. 08/2011)
ilsb-plsd-nov11item03

ITEM #04

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Update on the Next Generation of Science Standards.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Senate Bill (SB) 300, which can be found on the Official California Legislative Information Web site at http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0251-0300/sb_300_bill_20111008_chaptered.pdf (Outside Source), was signed by the Governor on October 8, 2011. As Chaptered, SB 300 requires the State Superintendent of Public Instruction (SSPI) to present recommended science content standards to the California State Board of Education (SBE) by March 30, 2013.

On September 20, 2011, Achieve, Inc. officially announced that California is one of the Lead State Partners who will work on developing the Next Generation of Science Standards (NGSS). California's participation will assist in meeting the requirements of SB 300.

On July 19, 2011, the National Research Council of the National Academies released *A Framework for K-12 Science Education: Practices, Crosscutting Concepts, and Core Ideas,* developed by the Committee on a Conceptual Framework for New K-12 Education Standards. This new national framework will serve as guidance in developing standards per SB 300.

RECOMMENDATION

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

BRIEF HISTORY OF KEY ISSUES

The current Science Content Standards for California Public Schools was adopted by the SBE in 1998. These standards were the basis for the existing Science Framework for California Public Schools adopted by the SBE in 2004. Much has been learned since their adoption about how students learn science most effectively, and the new national framework incorporates those findings and approaches.

This new national framework and California's participation in the development of the NGSS will assist in meeting the requirements of SB 300.

SB 300 requires the SSPI to convene a group of science experts with whom the SSPI would be required to recommend science content standards for adoption to the SBE. At least 2 public meetings are required for public input on the science content standards. The SSPI must present the recommended science content standards to the SBE by March 30, 2013. The SBE must adopt, reject, or modify those standards by July 30, 2013. The SSPI and the SBE must present to the Governor and the appropriate policy and fiscal committees of the Legislature a schedule and implementation plan for integrating the adopted science content standards into the state educational system.

The new national framework was commissioned by the National Research Council and developed by an 18 member committee chaired by Helen Quinn, SLAC National Accelerator Laboratory, Stanford University. Four other California educators were on the committee. Attachment 1 of this item is the Report Brief for the framework. The complete framework is available on the National Academies Web site at http://www.nap.edu/ (Outside Source).

The development of the NGSS is based on the new framework. The 20 Lead State Partners will guide the standards writing process, gather and deliver feedback from state-level committees and come together to address common issues and challenges. The Lead State Partners also agree to commit staff time to the initiative and, upon completion, give serious consideration to adopting the NGSS. In order to be considered, states had to submit a letter with the signature of the Chief State School Officer and the Executive Director of the SBE. Attachment 2 is the press release of NGSS lead states.

Drafts of the science standards will be made available for public input at least twice during the NGSS development process. The NGSS should be completed by the fall of 2012. Attachment 3 is the timeline for the development of the standards.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

None

FISCAL ANALYSIS (AS APPROPRIATE)

Projected costs for participating in the development of the NGSS are approximately $186,000 which may come from foundation funding. This amount would cover the cost of required trips to Washington, convening the California teams, and for staff to coordinate the logistics associated with the development of the standards. Existing CDE staff will be part of the CDE Leadership Team. Attachment 4 lists the names of the State Core Leadership Team, a subset of the CDE Leadership Team. The development of the science standards is a short-term project which is targeted for completion by fall of 2012.

ATTACHMENT(S)

Attachment 1: Report Brief: A Framework for K-12 Science Standards: Practices, Crosscutting Concepts, and Core Ideas (6 Pages)

Attachment 2: Press Release: States to Lead Effort to Write Next Generation Science Standards (2 Pages)

Attachment 3: Timeline for the Development of the Next Generation of Science Standards (1 Page)

Attachment 4: State Core Leadership Team for the Development of New Science Standards (1 Page)

JULY 2011 BOARD ON SCIENCE EDUCATION

Report Brief: A Framework for K-12 Science Standards: Practices, Crosscutting Concepts, and Core Ideas

This report and the framework were prepared by the Board on Science Education, part of The National Academies. The framework was developed by an 18 member committee of science experts. Five of the 18 members are from California.

Note: This is a Word version of a portable document format (pdf) file available at http://www7.nationalacademies.org/bose/Standards_Framework_Homepage.html

WHY IS A K-12 SCIENCE FRAMEWORK NEEDED?

Science, engineering, and technology permeate every aspect of modern life. Some knowledge of science and engineering is required to understand and participate in many major public policy issues of today, as well as to make informed everyday decisions, such as selecting among alternate medical treatments or determining whether to buy an energy-efficient furnace.

By the end of the 12th grade, students should have sufficient knowledge of science and engineering to engage in public discussions on science-related issues, to be critical consumers of scientific information related to their everyday lives, and to be able to continue to learn about science throughout their lives. They should recognize that our current scientific understanding of the world is the result of hundreds of years of creative human endeavor. And these are goals for *all* of the nation's students, not just those who pursue higher education or careers in science, engineering, or technology.

Today, science education in the United States is not guided by a common vision of what students finishing high school should know and be able to do in science. Too often, standards are long lists of detailed and disconnected facts, reinforcing the criticism that our schools' science curricula tend to be "a mile wide and an inch deep." Not only does this approach alienate young people, it also leaves them with fragments of knowledge and little sense of the inherent logic and consistency of science and of its universality. Moreover, the current fragmented approach neglects the need for students to engage in the practices of science and engineering, which is a key part of understanding science.

The time is ripe for a new framework for K-12 science education not only because of weaknesses in the current approaches, but also because new knowledge in both the sciences and the teaching and learning of science has accumulated in the past 15 years. In addition, the movement by most of the states to adopt common standards in mathematics and in language arts has prompted the call for comparable standards in science to guide state reforms.

The National Research Council (NRC) of the National Academy of Sciences was asked to develop a framework that would provide unifying guidance for the nation's schools to improve all students' understanding of science. The expert committee that developed the framework used research-based evidence on how students learn, input from a wide array of scientific experts and educators, and past national reform efforts, as well as its members' individual expertise and collective judgment.

HOW THE FRAMEWORK WAS DEVELOPED

1. NRC convened a committee of 18 experts in education and scientists from many disciplines to develop the framework drawing on their own expertise, current research, and guidance from small teams of specialists.

2. A draft of the framework was released in the summer of 2010 to gather comments from scientists, teachers, and the public. The National Science Teachers Association, the American Association for the Advancement of Science, and other groups aided this effort by collecting feedback from their members.

3. The committee revised the draft in response to all the comments received.

4. As a final step to ensure high quality, the framework went through the NRC's intensive peer-review process. More than 20 experts in the sciences, engineering, and teaching and learning provided detailed comments.

5. The committee revised the framework again in response to the experts' comments.

HOW WILL THE FRAMEWORK BE USED?

The framework is designed to be the basis for the next generation of science standards. Using the practices, crosscutting concepts, and core ideas that the framework lays out, a group of states, coordinated by Achieve, Inc. (a nonprofit education organization), will develop standards for what students should learn at grades 2, 5, 8, and 12.

The framework is also designed to be useful to others who work in science education. They include:

• curriculum developers and assessment designers;

• schools and educators who train teachers and create professional development materials for them;

• state and district science supervisors, who make key decisions about curriculum, instruction, and professional development; and

• science educators who work in informal settings, such as museum exhibit designers or writers and producers of documentary films.

WHAT'S IN THE FRAMEWORK?

The framework consists of a limited number of elements in three dimensions: (1) scientific and engineering practices, (2) cross-cutting concepts, and (3) disciplinary core ideas in science. It describes how they should be developed across grades K-12, and it is designed so that students continually build on and revise their knowledge and abilities throughout their school years. To support learning, all three dimensions need to be integrated into standards, curricula, instruction, and assessment.

DIMENSION 1: SCIENTIFIC AND ENGINEERING PRACTICES

1. Asking questions (for science) and defining problems (for engineering)
2. Developing and using models
3. Planning and carrying out investigations
4. Analyzing and interpreting data
5. Using mathematics and computational thinking
6. Constructing explanations (for science) and designing solutions (for engineering)
7. Engaging in argument from evidence
8. Obtaining, evaluating, and communicating information

This dimension focuses on important practices used by scientists and engineers: modeling, developing explanations, and engaging in argumentation. These practices have too often been underemphasized in K-12 science education. For example, all of the disciplines of science share a commitment to data and evidence as the foundation for developing claims about the world. As they carry out investigations and revise or extend their explanations, scientists examine, review, and evaluate their own knowledge and ideas and critique those of others through a process of argumentation.

Engaging in the full range of scientific practices helps students understand how knowledge develops and gives them an appreciation of the wide range of approaches that are used to investigate, model, and explain the world. Similarly, engaging in the practices of engineering helps students understand the work of engineers and the links between engineering and science.

The full report describes these eight practices, articulating the major competencies that students should have by the end of 12th grade and outlining how student competence might progress across the grades.

DIMENSION 2: CROSSCUTTING CONCEPTS THAT HAVE COMMON APPLICATION ACROSS FIELDS

1. Patterns
2. Cause and effect: mechanism and explanation
3. Scale, proportion, and quantity
4. Systems and system models
5. Energy and matter: flows, cycles, and conservation
6. Structure and function
7. Stability and change

These seven cross-cutting concepts are key across science and engineering. They provide students with ways to connect knowledge from the various disciplines into a coherent and scientific view of the world. For example, the concept of “cause and effect: mechanism and explanation” includes the key understandings that events have causes, sometimes simple, sometimes multifaceted; that a major activity of science is investigating and explaining causal relationships and the mechanisms by which they are mediated; and that such mechanisms can then be tested across given contexts and used to predict and explain events in new contexts.

Students’ understanding of these crosscutting concepts should be reinforced by their repeated use in instruction across the disciplinary core ideas (see Dimension 3). For example, the concept of “cause and effect” could be discussed in the context of plant growth in a biology class and in the context of investigating the motion of objects in a physics class. Throughout their science and engineering education, students should be taught the crosscutting concepts in ways that illustrate their applicability across all the disciplines.

DIMENSION 3: CORE IDEAS IN FOUR DISCIPLINARY AREAS

Physical Sciences
PS 1: Matter and its interactions
PS 2: Motion and stability: Forces and interactions
PS 3: Energy
PS 4: Waves and their applications in technologies for information transfer

Life Sciences
LS 1: From molecules to organisms: Structures and processes
LS 2: Ecosystems: Interactions, energy, and dynamics
LS 3: Heredity: Inheritance and variation of traits
LS 4: Biological Evolution: Unity and diversity

Earth and Space Sciences
ESS 1: Earth’s place in the universe
ESS 2: Earth’s systems
ESS 3: Earth and human activity

Engineering, Technology, and the Applications of Science
ETS 1: Engineering design
ETS 2: Links among engineering, technology, science, and society

The framework includes core ideas for the physical sciences, life sciences, and earth and space sciences because these are the disciplines typically included in science education in K-12 schools. Engineering and technology are featured alongside these disciplines for two critical reasons: to reflect the importance of understanding the

human-built world and to recognize the value of better integrating the teaching and learning of science, engineering, and technology.

The focus on a limited number of core ideas in science and engineering is designed to allow sufficient time for teachers and students to explore each idea in depth and thus with understanding.

The full report provides detailed descriptions of each core idea, as well as descriptions of what aspects of each idea should be learned by the end of grades 2, 5, 8 and 12. Establishing limits for what is to be learned about each core idea for each grade band clarifies the most important ideas that students should learn.

HOW CAN THE VISION OF THE FRAMEWORK BE REALIZED?

Students will make the greatest strides in science and engineering learning when all components of the system—from professional development for teachers to curricula and assessments to time allocated for these subjects during the school day—are aligned with the vision of the framework. Aligning the existing K-12 system with that vision will involve overcoming many challenges, including teachers' familiarity with current instructional practices and the time allocated to science. The full report identifies such challenges to help educators and policymakers begin to consider how to meet them. It also offers recommendations to guide standards developers and lays out an agenda for updating the framework and standards in the future.

For More Information . . .

This brief was prepared by the Board on Science Education www.nationalacademies.org/bose. Copies of the report, *A Framework for K-12 Science Standards: Practices, Crosscutting Concepts, and Core Ideas*, are available from the National Academies Press at (888) 624-8373 or (202) 334-3313 (in the Washington, DC metropolitan area) or via the National Academies Press webpage at www.nap.edu. The study was funded by the Carnegie Corporation. Any opinions, findings, conclusions, or recommendations expressed in the publication are those of the authors and do not necessarily reflect those of the Carnegie Corporation.

COMMITTEE ON A CONCEPTUAL FRAMEWORK FOR NEW SCIENCE EDUCATION STANDARDS

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Press Release: States to Lead Effort to Write Next Generation Science Standards

SEPTEMBER 20, 2011—A group of 20 states has been selected to lead an important effort to improve science education for all students.

The 20 states will lead the development of Next Generation Science Standards (NGSS), a state-led effort that will clearly define the content and practices all students will need to learn from kindergarten through high school graduation. The NGSS process is being managed by Achieve, an education reform non-profit organization.

“The Lead State Partners will provide important leadership and guidance throughout the development of the Next Generation Science Standards and are to be congratulated for making a strong commitment to improving science education,” said Michael Cohen, president of Achieve. “This will be a collaborative, process that will lead to a set of standards that provides America’s students a strong foundation in science and supports college and career readiness for all.”

The Lead State Partners are Arizona, California, Georgia, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Rhode Island, South Dakota, Tennessee, Vermont, Washington and West Virginia

The development of the Next Generation Science Standards is a two-step process. The first step was the building of a framework that identified the core ideas and practices in natural sciences and engineering that all students should be familiar with by the time they graduate. In July, the National Research Council released *A Framework for K-12 Science Education,* developed by a committee representing expertise in science, teaching and learning, curriculum, assessment and education policy.

The second step is the development of science standards based on the *Framework*. The 20 Lead State Partners will guide the standards writing process, gather and deliver feedback from state-level committees and come together to address common issues and challenges. The Lead State Partners also agree to commit staff time to the initiative and, upon completion, give serious consideration to adopting the Next Generation Science Standards. In order to be considered, states had to submit a letter with the signature of the Chief State School Officer and the chair of the State Board of Education.

Drafts of the science standards will be made available for public input at least twice during the NGSS development process. The NGSS should be completed by the end of 2012.

American students continue to lag internationally in science education, making them less competitive for the jobs of the present and the future. A recent U.S. Department of Commerce study shows that over the past 10 years, growth in Science, Technology, Engineering and Mathematics (STEM) jobs was three times greater than that of non-

STEM jobs. The report also shows that STEM jobs are expected to continue to grow at a faster rate than other jobs in the coming decade.

"There is a clear benefit to providing our students with the strong science education they need to compete in college and the work place," said Stephen Pruitt, Vice President of Content, Research and Development at Achieve, who is coordinating the NGSS effort. "A strong science education provides all students with opportunities to be successful in the 21st century."

For more information, visit the Next Generation Science Standards website at www.nextgenscience.org.

ABOUT ACHIEVE

Created in 1996 by the nation's governors and corporate leaders, Achieve is an independent, bipartisan, nonprofit education reform organization based in Washington D.C. that helps states raise academic standards and graduation requirements, improve assessments, and strengthen accountability. Achieve is leading the effort to make college and career readiness a national priority so that the transition from high school graduation to postsecondary education and careers is seamless. In 2005 Achieve launched the American Diploma Project Network. Starting with 13 original states, the Network has now grown to include 35 states educating nearly 85 percent of all U.S. public school students. Through the ADP Network, governors, state education officials, postsecondary leaders and business executives work together to improve postsecondary preparation by aligning high school standards, assessments, graduation requirements and accountability systems with the demands of college and careers. In addition, Achieve partnered with NGA and CCSSO on the Common Core State Standards Initiative; was selected by the states to manage the PARCC assessment consortia creating tests in math and English aligned to the CCSS and is managing the development of the Next Generation Science Standards. For more information about the work of Achieve, visit www.achieve.org

Timeline for the Development of the Next Generation of Science Standards

Information and graphic are from the Next Generation Science Standards (NGSS) Development Process Web page at http://www.nextgenscience.org/development-process.

Throughout the development process, the NGSS will go through several rounds of review with multiple stakeholder groups. Each group will receive draft standards at least twice throughout the development process. Below is the general process and timeline for the development of the NGSS

State Core Leadership Team for the Development of New Science Standards

California Leadership

- Tom Torlakson, State Superintendent of Public Instruction, California Department of Education (CDE)

- Dr. Michael Kirst, President, California State Board of Education (SBE)

Governor's Education Policy Advisor

- Sue Burr, Executive Director, California State Board of Education (SBE)

State Board Members

- Trish Williams, Vice President, California State Board of Education (SBE)
- Dr. Ilene Straus, Member, California State Board of Education (SBE)

California Department of Education Program Supervisors

- Deborah V.H. Sigman, Deputy Superintendent, District, School, and Innovation Support Branch, CDE

- Lupita Cortez Alcala, Deputy Superintendent, Instruction and Learning Support Branch, CDE

- Thomas Adams, Director, Curriculum Frameworks and Instructional Resources Division, CDE

- Phil Lafontaine, Director, Professional Learning and Support Division, CDE and former Council of State Science Supervisor (CS^3) Member

- Rachel Perry, Director, Analysis, Measurement, and Accountability Reporting Division, CDE

- Patrick Ainsworth, Director, Career and College Transition Division, CDE

- Fred Balcom, Director, Special Education Division, CDE

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Principles and Requirements for a Waiver of Selected Provisions of the No Child Left Behind Act of 2001 to Implement a Specific Statewide Accountability System for All California Local Educational Agencies in Advance of Elementary and Secondary Education Act Reauthorization.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

This item provides an overview of federal requirements for the California State Educational Agency (SEA), on its own behalf and on behalf of all of its local educational agencies (LEAs), to waive 10 provisions of the Elementary and Secondary Education Act (ESEA) of 1965 authorized as the No Child Left Behind (NCLB) Act of 2001 and implement a specific alternative statewide standards and accountability system. The item includes:

- ESEA provisions that are eligible for waiver
- Mandatory principles and requirements to be met in order to receive the waiver
- Timelines for submission of a waiver request
- Expectations for California to meaningfully consult with others and prepare a high-quality plan demonstrating the SEA's readiness to implement waiver conditions
- General cost estimates, which will be contingent upon Legislative and SEA decision-making about implementation of the specified alternative accountability system

An SEA may not request to waive a portion of the eligible ESEA provisions or implement only some of its principles. As stated on page iv of Attachment 1, entitled *ESEA Flexibility Request:*

> An SEA seeking approval to implement this flexibility must submit a high-quality request that addresses all aspects of the principles and waivers and, in each place where a plan is required, includes a high-quality plan….The Department will not accept a request that meets only some of the principles of this flexibility.

SUMMARY OF THE ISSUE(S) (Cont.)

Therefore, a critical factor in the SEA's decision to apply for the waiver is the determination that the SEA and all LEAs are ready to implement all required conditions of the waiver within specified timelines.

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) engage in a discussion of ESEA waiver requirements. No specific action is recommended at this time.

BRIEF HISTORY OF KEY ISSUES

On August 23, 2011, State Superintendent of Public Instruction (SSPI) Tom Torlakson sent a letter to U.S. Department of Education (ED) Secretary of Education Arne Duncan, expressing his concerns about the current shortcomings of the NCLB accountability system and the need for relief for California's LEAs from escalating sanctions imposed on schools and districts that fail to make Adequate Yearly Progress (AYP). (See Attachment 2.) Expressing his concerns about the priorities and conditional nature of waivers, SSPI Torlakson wrote:

> These policy priorities would mark dramatic deviations from the existing policies required under NCLB. States would be asked to make commitments beyond NCLB with no commensurate funding to provide the state capacity to implement such requirements. The appropriate forum for consideration of any new legal mandates is through the reauthorization process involving transparency and Congressional democratic debate.

On September 23, 2011, September 28, 2011, and October 3, 2011, the ED issued guidance for SEAs to apply for the ESEA waiver. The 10 provisions of ESEA for which waiver applications will be accepted include the following:

1. 2013–14 Timeline for Determining AYP
2. Implementation of School Improvement Requirements
3. Implementation of LEA Improvement Requirements
4. Rural LEA Funding Flexibility
5. Schoolwide Programs
6. Support for School Improvement
7. Reward Schools
8. Highly-Qualified Teacher (HQT) Improvement Plans
9. Transfer of Certain Funds
10. Use of School Improvement Grant (SIG) Funds to Support Priority Schools

A full description of the 10 ESEA provisions eligible for waiver, including timelines, is included in the document entitled, *ESEA Flexibility* issued on September 23, 2011, in Attachment 3.

BRIEF HISTORY OF KEY ISSUES (Cont.)

To be granted a waiver of the provisions listed above, an SEA must submit a request that addresses each of the following four principles and associated requirements:

1. College- and Career-Ready Expectations for All Students
2. State-Developed Differentiated Recognition, Accountability, and Support
3. Supporting Effective Instruction and Leadership
4. Reducing Duplication and Unnecessary Burden

A full description of the Principles for Improving Student Academic Achievement and Increasing the Quality of Instruction is also included in Attachment 3.

Embedded within the four principles that are conditions of the waiver are at least 11 requirements that states must address in the waiver request. The conditions include how an SEA will establish a new system of standards, assessments, professional development, and differentiated accountability for schools and educators. States may be at different levels of readiness to adopt and implement College and Career Ready (CCR) Standards, associated assessments, professional development, and educator, and school district accountability systems. Furthermore, states that have received early Race to the Top grants may have already begun to implement the prescribed waiver conditions. However, each state must assess its own readiness to meet these conditions in exchange for the waiver.

Alternative dates for submission of a request include: November 14, 2011, a date to be announced in mid-February 2012, and an additional opportunity following the conclusion of the 2011–12 school year. The duration of an approved waiver is from the date of approval through the 2013–14 school year. An SEA may apply for a waiver extension with conditions through 2014–15.

Concurrent with the release of this waiver option, the United States Congress has re-engaged in its deliberations on the reauthorization of ESEA. Attachment 4 is a summary of current congressional action on ESEA reauthorization provided by Brustein and Manasevit, PLLC. It is unknown how implementation of an approved waiver will interact with implementation of a reauthorization of ESEA.

The flexibility guidance requires significant consultation prior to submission of the Waiver. The consultation requirements are described on page 6 of Attachment 3.

> Each SEA must engage diverse stakeholders and communities in the development of its request…Each SEA must provide a description of how the SEA meaningfully engaged and solicited input on its request from other diverse communities, such as students, parents, community-based organizations, civil rights organizations, organizations representing students with disabilities and English learners, business organizations, and Indian tribes. Finally, each SEA must provide an assurance that it has consulted with the State's Committee of Practitioners regarding the information set forth in its request.

BRIEF HISTORY OF KEY ISSUES (Cont.)

The instructions for Review of High-Quality Requests are included in the document titled *ESEA Flexibility Review Guidance*, issued on September 28, 2011, which is available in Attachment 5. This guidance will be used by Peer Reviewers as they review waiver requests and advise the Secretary on whether a state's plan includes evidentiary activities responsive to the questions on pages 6–20 of the *Guidance*. Examples of these questions include:

- Does the SEA propose to develop and disseminate high-quality instructional materials aligned with the new standards? If so, are the instructional materials designed (or will they be designed) to support the teaching and learning of all students, including English Learners, students with disabilities, and low-achieving students? (p.7)

- Does the SEA intend to provide professional development and other supports to prepare teachers to teach all students, including English Learners, students with disabilities, and low-achieving students to the new standards? If so, will the planned professional development and supports prepare teachers to teach to the new standards, use instructional materials aligned with those standards, and use data on multiple measures of student performance (e.g., data from formative, benchmark, and summative assessments) to inform instruction? (p.7)

- Did the SEA propose a differentiated recognition, accountability, and support system, and a high-quality plan to implement this system no later than the 2012-2013 school year, that is likely to improve student achievement and school performance, close achievement gaps, and increase the quality of instruction for students? (p.10)

- Did the SEA describe the method it will use to set new ambitious but achievable annual measurable objectives (AMOs) in at least reading/language arts and mathematics, for the state and all LEAs, schools, and subgroups, that provide meaning goals and are used to guide support and improvement efforts? (p.11)

- Did the SEA describe its methodology for identifying a number of lowest-performing schools equal to at least five percent of the State's Title I schools as priority schools? (p.12)

- Is the SEA's proposed timeline for ensuring that LEAs that have one or more priority schools implement meaningful interventions aligned with the turnaround principles in each priority school no later than the 2014–15 school year reasonable and likely to result in implementation of the interventions in these schools? (p.14)

- Did the SEA describe the process and timeline it will use to ensure that each LEA identifies the needs of its focus schools and their students and provide examples of and justifications for the interventions the SEA will require its focus schools to

BRIEF HISTORY OF KEY ISSUES (Cont.)

implement to improve the performance of students who are furthest behind? (p.15)

- Is the SEA's plan for developing and adopting guidelines for local teacher and principal evaluation and support systems likely to result in successful adoption of those guidelines by the end of the 2011–12 school year? (p.17)

- Does the SEA have a process for reviewing and approving an LEA's teacher and principal evaluation and support system to ensure that they are consistent with the SEA's guidelines and will result in the successful implementation of such systems? (p.19)

- Did the SEA provide a comprehensive and coherent approach for implementing the waivers and principles in its request? Is implementation of the SEA's approach likely to increase the quality of instruction for students and improve student achievement? (p.20)

The ED's responses to frequently asked questions are included in the document titled *ESEA Flexibility Frequently Asked Questions* document issued on October 3, 2011, which is available in Attachment 6.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has informally discussed the extent to which the delay in ESEA reauthorization is impacting schools and districts in California. However, there has been no formal SBE discussion of the ESEA waiver option.

FISCAL ANALYSIS

Accurate cost projections for implementing waiver requirements hinge on the adoption of a number of legislative and SBE policy decisions not yet undertaken. However, to inform the November 2011, SBE discussion, CDE staff has made preliminary estimates of potential state and local costs and potential LEA savings.

Based upon an initial analysis, the costs to LEAs and the SEA to implement all principles and provisions of an ESEA waiver will be significant. LEAs will be relieved of requirements for Title I set-asides for Choice and supplemental educational services ($208 million in the 2010–11 school year) and Title I professional development ($146 million in the 2010–11 school year). However, projected cost estimates for statewide implementation of waiver conditions range from $2.4 billion to $3.1 billion. This estimate reflects materials adoption and purchase, professional development for all teachers, development and statewide implementation of a teacher and principal evaluation system, statewide implementation of teacher collaboration time, and assessment and accountability development costs.

FISCAL ANALYSIS (Cont.)

Additional detail on these estimates will be provided in a CDE Initial Estimate of Federal Waiver Fiscal Impact as Attachment 7 in an Item Addendum.

ATTACHMENT(S)

Attachment 1: September 28, 2011, *ESEA Flexibility Request* Web document. This attachment is posted on the U.S. Department of Education Web site at http://www.ed.gov/sites/default/files/esea-flexibility-request-acc_0.doc (Outside Source). (26 Pages)

Attachment 2: August 23, 2011, letter from Tom Torlakson, State Superintendent of Public Instruction, to Arne Duncan, Secretary of Education, U.S. Department of Education, regarding shortcomings of No Child Left Behind Accountability. This attachment is posted on the CDE Letters Year 2011 Web page at http://www.cde.ca.gov/nr/el/le/yr11ltr.asp#august (2 Pages)

Attachment 3: September 23, 2011, *ESEA Flexibility* Web document. This attachment is posted on the U.S. Department of Education Web site at http://www.ed.gov/sites/default/files/esea-flexibility-acc_0.doc (Outside Source). (25 Pages)

Attachment 4: Brustein and Manasevit Summary of Elements of the Elementary and Secondary Education Reauthorization Act of 2011 (4 Pages)

Attachment 5: September 28, 2011, *ESEA Flexibility Review Guidance* Web document. This attachment is posted on the U.S. Department of Education Web site at http://www.ed.gov/sites/default/files/review-guidance.doc (Outside Source). (22 Pages)

Attachment 6: October 3, 2011, *ESEA Flexibility Frequently Asked Questions Guidance* Web document. This attachment is posted on the U.S. Department of Education Web site at http://www.ed.gov/sites/default/files/esea-flexibility-faqs.doc (Outside Source). (52 Pages)

Attachment 7: The California Department of Education Initial Estimate of Federal Waiver Fiscal Impact will be provided in an Item Addendum.

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The Elementary and Secondary Education Reauthorization Act of 2011

Key Changes from NCLB

- No more Adequate Yearly Progress or 100% proficiency goals
  - States will design their own assessments and accountability systems consistent with widely agreed-upon principles
- States will no longer have to label most schools as passing or "in need of improvement"
  - Instead, focus is on the bottom 5% of schools, those with the greatest achievement gaps, and high schools with highest dropout rates for mandated federal intervention
  - Reporting of disaggregated data to the community is emphasized
- Codifies Race to the Top, Invest in Innovation
  - Still gives great discretion for crafting of competition to Secretary of Education
  - Competition dependent on Congress making funds available

Other Significant Provisions

- More flexibility and control at state level overall
- Fewer specified areas of accountability
- Includes the 4 models for school improvement plus 2 new models
  - Used only for lowest-performing 5% of schools
  - An amendment by Senator Alexander in markup added a seventh option: a model designed by the State and approved by the U.S. Department of Education
- Defines "college and career readiness" and makes it the focus of State-driven accountability
- Federal support for teacher and principal evaluations which include student achievement data as a factor (not a requirement, per Harkin changes, but strongly incentivized)
- Federal support for performance pay
- Federal support for teacher recruitment and retention
- Increased emphasis on STEM subjects, literacy, community involvement (Promise Neighborhoods)
- Increased flexibility for rural and remote schools
- Attempts to connect programs and promote alignment for at-risk students, including better support for foster children, homeless, neglected, and delinquent students
- Increased federal support for expansion and replication of successful charter school models

What Stays the Same

- Retains requirement to test in reading and math in third through eighth grades and once in high school
- Potential penalties for schools that do not improve; rewards for those which are particularly successful in boosting achievement and closing the achievement gap
- Most programs and funding streams are still in place; some smaller programs are consolidated

The Elementary and Secondary Education Reauthorization Act of 2011

Key Amendments in Committee Markup

- Alexander Amendment I:5
  - Amends school improvement strategies to add a State-created alternative model, with approval of ED
  - Adopted by a vote of 15-7
- Franken Amendment I:2
  - Allows computer adaptive assessments
  - Tailors assessment to proficiency of child; increases accuracy of results (also allows results within multiple grade levels) and promotes more immediate feedback for teachers
  - Adopted by voice vote
- Burr Amendment II:2
  - Changes Title II allotment formula to strike provision requiring each state to receive at least what it received in 2001.
  - Will likely not change distribution of funds in near future; does not modify distributive formula, only takes away minimum payment requirement.
  - Adopted by a vote of 14-8

Other Significant Amendments Agreed to in Committee Markup

- Murkowski Amendments I:1 and I:2
  - Would allow exceptions to HQT requirements for teachers of native languages/cultures and for visiting teachers of foreign languages
  - Shows some wiggle room on federal level requirements where appropriate – no more "one size fits all"
  - Both adopted by voice vote
- Murray Amendment I:3
  - Would allow cross tabulation of data to focus efforts on subgroup overlap
  - Agreed to by voice vote
- Several principal-focused amendments, e.g.:
  - Hagan I:2 (would require principals of turnaround schools to have specialized training or a demonstrated record of success; passed by voice vote)
  - Franken II:1 (would provide support for recruitment and professional development of principals)

The Elementary and Secondary Education Reauthorization Act of 2011 – Procedural Summary

Background

Chairman Tom Harkin (D-IA) of the Senate's Health, Education, Labor, and Pensions Committee has been in intense discussions with committee members for over a year regarding reauthorization of the Elementary and Secondary Education Act. In June of 2011, Secretary of Education Arne Duncan announced that he would consider offering conditional waivers of major ESEA provisions to states in a move that many analysts believe was meant to push Congress into action (Duncan and President Obama had earlier asked Congress to have a signed bill in place by the beginning of the school year).

In the first week of October 2011, Harkin announced markup of yet-to-be-released legislation that would reauthorize ESEA. The legislation was made public less than a week before markup for comment from stakeholders. While some small changes were made to the draft legislation before markup, the most significant had to do with teacher and principal evaluation. Harkin's original draft required that States institute teacher and principal evaluations, which would be based at least in part on student performance and would inform personnel decisions, in order to receive federal funds under Title II of ESEA. In need of support from teachers unions, Harkin chose to soften the teacher evaluation language, as well as other language which would promote strongly prescriptive growth models.

Markup and Procedural Drama

Given the growing split between moderate Republican Senators and more conservative "Tea Party" Republicans, it was expected that conservative Republicans would oppose the draft bill. Many Tea Party Congressmen and Senators, including HELP Committee Member Rand Paul (R-KY), have said publicly that they would like to abolish the U.S. Department of Education (ED). Even more moderate Republicans have said they would like to start over from scratch in building federal education policy.

These conflicts came to a head on the first day of the draft bill's markup. Senator Rand Paul filed an objection to the waiver of a little-used Senate procedural regulation known as the "two-hour rule." This rule prohibits Committees from meeting for more than two hours at a time while the Senate is in session and is intended to prevent Senators from missing votes due to Committee business. However, it is usually waived by unanimous consent at the beginning of each legislative day. The Senator's objection meant that the Committee could meet only two hours each day before adjourning, and could drag the markup out for weeks. Paul's stated objection to the markup was that he felt the legislation was moving too fast, without opportunity to hear from stakeholders or consider the contents of the eight-hundred-page bill. In an additional attempt to derail the markup, Paul had introduced 74 amendments to the draft, of a total 144 submitted by various Senators.

While Chairman Harkin went to the floor to protest Paul's objection, he and Enzi worked behind the scenes to come to an agreement which would allow them to continue as scheduled. Shortly after the beginning of the next day's session, Senator Harkin announced that they had come to an agreement with Senator Paul. In exchange for dropping his objection, Senator Paul would be able to question stakeholders and put forth his own opinions at a hearing on ESEA November 8th. While this would certainly be too late to inform the drafting of any final legislation, it allowed Paul to delay the markup and make his presence felt. Paul also felt pressure and withdrew all but three of his proposed amendments before they could be debated – likely under pressure from his own party.

Markup Outcome

Senators offered fifty-five amendments during markup of the draft legislation. Of those amendments, twenty were withdrawn, most because the amendment's sponsor had come to an agreement with the Chairman and Ranking Member to include his or her changes in the Manager's amendment, or to offer the amendment before a broader audience.

The draft legislation was reported out of Committee Executive Session in a vote of 15-7. Though Enzi and Harkin have said their goal is to have completed legislation on the President's desk by Christmas, this seems unlikely given the negotiations that would have to take place with a highly partisan House of Representatives.

Stakeholder Support

Vital to the progress of this legislation is the support of educational advocacy and stakeholder groups. While the National Education Association won a big victory with the changes to the legislation – especially related to teacher and principal evaluation – its support was guarded. And advocates for students with disabilities – a cause of great importance to Senator Harkin – roundly criticized the bill as doing away with much of the subgroup accountability that was central to No Child Left Behind. Even the Obama Administration was not particularly happy with the legislation, criticizing the draft for being weak on accountability. Finally, advocates have criticized the legislation – and the compromises made by Harkin – for valuing "action over detail."

Still, both Harkin and Enzi have said they neither one of them believes this legislation is perfect. Instead, they have said that they believe the legislation is an important first step and is the result of an open and bipartisan discussion.

Next Steps

The Committee will meet next on November 8th for a hearing on the American education system. The hearing will come too late to make any significant difference in policy, but is the result of a compromise to resolve the procedural objection raised by Senator Paul early in the markup process.

After the hearing, Harkin's draft legislation will be placed on the Senate Calendar. The bill will likely proceed under an open (any amendment can be offered) or a modified open (amendments approved by the Rules Committee may be offered) rule.

Assuming passage in the Senate, House and Senate leadership will then have to agree on a course of action. The fact that the Senate has passed one large bill and the House is working on several small bills means that a traditional conference process – where representatives from both chambers and parties meet to work out differences between two similar bills – will be impossible. Instead, the Senate may expect House Republicans to offer the bill on the House floor.

This difficult bicameral process means that Harkin and Enzi may miss their Christmas deadline for having the bill signed into law. While legislation may be passed in the Senate before the holidays, it seems likely that compromise with the House could drag the process into next year, if it proves possible at all.

ITEM ADDENDUM

DATE: November 3, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 5 – Elementary and Secondary Education Act: Principles and Requirements for a Waiver of Selected Provisions of the No Child Left Behind Act of 2001 to Implement a Specific Statewide Accountability System for All California Local Educational Agencies in Advance of Elementary and Secondary Education Act Reauthorization.

Summary of Key Issues

Attachment 6 provides an initial estimate of the fiscal impact of implementing the federal waiver of selected provisions of the Elementary Secondary Education Act (ESEA) of 1965. Sample costs and projected savings to local educational agencies (LEAs), based on the four documents provided by the U.S. Department of Education (ED) and included as Attachments 1, 3 5, and 6 with this SBE Agenda item, are provided. It is organized by the principles and required elements of the flexibility waiver as described in the September 2011 correspondence from the ED.

Attachment(s)

Attachment 6: California Department of Education Initial Estimate of Federal Waiver Fiscal Impact (14 Pages)

California Department of Education Initial Estimate of Federal Waiver Fiscal Impact

This Item Addendum is an estimate of the initial costs and potential financial benefits of applying for, receiving and implementing a waiver of specific requirements of Title I of the No Child Left Behind (NCLB) Act of 2001, the current authorization of the Elementary and Secondary Education Act (ESEA) of 1965.

The U.S. Department of Education (ED) issued correspondence and guidance for the NCLB waiver on September 23, 2011, September 28, 2011, and October 3, 2011. Alternative dates for submission of a request include: November 14, 2011; mid-February, 2012; and at the conclusion of the 2011–12 school year. The duration of an approved waiver is from the date of approval through the 2013–14 school year although a state education agency (SEA) may apply for a waiver extension with conditions through 2014–15. It is unknown how implementation of an approved waiver will interact with implementation of a reauthorization of ESEA.

It was not possible to prepare a full analysis of the potential costs and benefits to meeting all of the waiver requirements in time for the November State Board of Education (SBE) meeting. Many of the costs hinge upon policy decisions which will need to be made by the Legislature and the SBE. Preparation of a high-quality waiver application requires significant work, which includes reciprocal state and local development work on virtually all aspects of our current standards-based curriculum, assessment, professional development, and Title I accountability systems. However, in order to engage the SBE in a conversation about whether or not the state should apply for the waiver, staff have done a preliminary analysis which includes assumptions that will need to be carefully unpacked and revised with input from diverse local educational agencies (LEAs) and key stakeholder groups before submission to the ED. Cost estimates are provided where available.

The analysis is organized by the principles and requirements of the waiver application. Some state and local costs are estimated. To calculate an estimate of local assistance costs, CDE estimated a range of costs to implement activities in LEAs that might have identified priority schools. These costs could potentially be offset by projected Title I savings to be realized from no-longer required supplemental educational services (SES), choice and professional development set-asides. However, all figures are estimates. The initial part of this document identifies potential actions and activities necessary to comply with the waiver; the second part is a matrix with cost estimates.

PRINCIPLE 1: COLLEGE- AND CAREER-READY EXPECTATIONS FOR ALL STUDENTS

1.A. Adopt College- and Career-ready Standards

Adopt college- and career-ready (CCR) standards in at least reading language arts and mathematics. California has adopted the Common Core State Standards in English language arts (ELA) and mathematics, but has not yet adopted CCR anchor standards. Legislation is required to adopt anchor standards.

1.B. Transition to College- and Career-ready Standards

The transition to CCR standards is inextricably linked to the implementation of Common Core State Standards (CCSS) and aligned instructional materials. Two options present themselves for the waiver.

Option 1: Implement new full programs in mathematics and ELA which align fully to the CCSS is estimated to cost approximately $483 million in districts costs and $4.2 million in state development costs. Mathematics and ELA curriculum frameworks will be completed in 2013 and 2014, respectively. Because of California Education Code (*EC*) Section 60220.7, the SBE is not allowed to adopt K-8 instructional materials until after July 1, 2015. Accelerating this process will require both the repeal or modification of *EC* Section 60200.7 and the modification of *EC* Section 60200 (a) (1-2), the statute requiring the SBE to provide a one year difference between math and ELA adoptions. In addition, the Legislature may need to remove the instructional materials funds from the flexibility provisions and restore them to their categorical status.

Option 2: Implement supplemental instructional materials designed to bridge the gap in academic content standards coverage which exist between the instructional materials previously adopted by the SBE and the new CCSS. The review currently being conducted will be completed in late 2012. The projected cost to districts for purchasing the materials is $238 million.

LEAs have initiated the analysis of their current standards relative to the CCSS, but will not complete that process until supplemental materials are available. This will include an analysis of the linguistic demands of the CCR standards and access for English learners and students with disabilities to achieve the standards. (Costs to be determined.)

Professional development and supports to prepare teachers to teach to the new standards and prepare administrators to support CCSS instruction are pivotal. Costs are calculated as initial costs to districts for professional learning to transition teachers to the CCSS. Projected costs are based on an estimate of $2,000 per teacher for 80 hours of training, a figure used initially in funding Senate Bill 472 professional development for teachers. In addition, there are ongoing yearly costs for teacher collaboration time, included in this analysis in building teacher capacity (see 2.g).

Access to college-level courses, intersections with institutions of higher education for this coursework and additional supports for teacher and administrator training have not yet been included in this analysis.

1.C. Develop and Administer Annual, Statewide Aligned High Quality Assessments that Measure Student Growth

California's participation in the SMARTER Balanced Assessment Consortium will result in annual high quality student assessment by 2014–15. We estimate that the current Standardized Testing and Reporting (STAR) program contract may be renegotiated to redirect some current costs. However, it is anticipated that the overall cost of the SMARTER Balanced Assessments will increase the testing cost by $10.00 per student from the current cost. California tests approximately 500,000 students in each of seven grades, including grades three through eight and grade ten.

New English language proficiency (ELP) standards consistent with the CCSS are to be adopted in the fall of 2012. LEAs can reasonably anticipate a cost of $1,000 per teacher for 40 hours of training to integrate the ELP standards into their curriculum and instruction.

PRINCIPLE 2: STATE-DEVELOPED DIFFERENTIATED RECOGNITION, ACCOUNTABILITY, AND SUPPORT

2.A. Develop and implement a State-based System of Differentiated Recognition, Accountability, and Support

California does not currently have a growth model in place that enables measurement of individual student progress over time. The state has not begun any revisions to its Accountability Workbook in order to propose a differentiated recognition, accountability and support system, nor is there a plan to implement this system in the 2012–13 school year. Doing so will require significant policy discussions with the State Legislature, the Governor, the SBE and education stakeholders. The estimated development cost to the state for the growth model is $3.5 million with an annual cost of $250,000 to print and distribute teacher reports on student growth. (See Section 3.A. for additional information.)

2.B. Set Ambitious but Achievable Annual Measurable Objectives

Work to be done includes the methodology to set new annual measurable objectives in at least reading/language arts and mathematics, a decision about whether to include additional assessments, and all associated psychometric features of a new accountability system. (Costs to be determined pending policy decisions.)

2.C. Reward Schools

While the CDE has a recognition program in place, a methodology for identifying the state's highest performing and high-progress schools, and how to recognize these schools would need to be development in accordance with the waiver. (Costs to be determined pending policy decisions.)

2.D. Priority Schools

The SEA is required to identify priority schools. A methodology has not yet been developed for defining the lowest five percent of Title I schools in the State, which would likely be based on the achievement of all students on the statewide assessments who have demonstrated a lack of progress on those assessments over a number of years. The SEA will also need to determine entry and exit criteria for priority status, school and district requirements and interventions and supports for these schools. For this analysis, we estimated the general cost of a priority school at $500,000 as waiver descriptors include a number of activities similar to those required of School Improvement Grant (SIG) recipients. (SIG schools are currently funded at $2 million per school.) Anticipating approximately 310 priority schools, and adjusting for the presence of some SIG schools in districts with priority schools, we anticipate an overall cost of $144 million annually for priority schools. This estimate takes into account that some priority schools may be receiving SIG funds.

2.E. Focus Schools

The SEA is also required to identify focus schools, which must be at least 10 percent of the state's Title I schools (n=617), that have the largest within-school gaps between the highest-achieving subgroup or subgroups and the lowest-achieving subgroup or subgroups or, at the high school level, have the largest within-school gaps in graduation rates. An SEA methodology has not yet been developed for defining focus schools nor for any of the corollary requirements. For this analysis, it was assumed that each of the 617 Title I schools might work with an external team on student achievement issues. Using historic school assistance team costs of $75,000 per school, the estimated cost for focus schools statewide is $43.8 million (adjusting for potential SIG schools).

2.F. Provide Incentives and Supports for Other Title I Schools

Absent a statewide system of differentiated recognition, accountability and support, it is not clear what incentives and supports will be provided for other Title I schools that are not making progress in improving student achievement and narrowing achievement gaps. (Costs to be determined pending policy decisions.)

2.G. Build SEA, LEA, and School Capacity to improve student learning

This section of the waiver requires the SEA to define a process for building SEA, LEA, and school capacity to improve student learning in all schools, and to ensure timely and comprehensive monitoring and provision of technical assistance for LEA implementation of interventions in priority and focus schools.

At minimum, this will include costs for teacher collaboration at $55 per hour.for a potential statewide estimated cost of $594 million. (Other costs, including LEA and school capacity supports to be determined pending policy decisions.)

PRINCIPLE 3: SUPPORTING EFFECTIVE INSTRUCTION AND LEADERSHIP

3.A. Develop and Adopt Guidelines for Local Teacher and Principal Evaluation and Support Systems

The ESEA waiver requires that each state have principles in place for a teacher and principal evaluation system by the end of the 2011–12 school year and that the system increase the quality of instruction for students and improve student achievement. California's current system of assessments was not designed to provide a valid and reliable measure for the high-stakes evaluation of teachers and principals.

Such a system must be used for continual improvement of instruction and meaningfully differentiate performance using at least three performance levels. It must be based on valid measures to evaluate teachers and principals on a regular basis. Currently, the reimbursable cost of the existing teacher evaluation system is estimated at $120 per teacher. It is estimated that the development of a new system would add $639 to each per teacher cost, including reimbursable time for three observations and pre- and post-observation meetings. (See Section 2.A. for related discussion.)

3.B. Ensure LEAs Implement Teacher and Principal Evaluation and Support Systems

The waiver application requires SEAs to have a process for revising and approving an LEA’s teacher and principal evaluation and support system; ensuring that LEAs develop, adopt, pilot and implement systems with systematic involvement of teachers and principals; ensuring that measures are valid and clearly related to increasing student achievement and school performance; and likely to meet the timeline for implementation no later than 2013–14. SEAs must provide guidance and technical assistance to LEAs in development and implementation of these systems and must supervise evaluations of pilot activities.

None of these activities has been undertaken to date at a statewide level and the scope of the expected work appears incompatible with the waiver timelines. (Costs to be determined pending policy decisions.)

ADDITIONAL COSTS AND POTENTIAL SAVINGS OF AN ESEA WAIVER

All of the above activities will require broad, systemic involvement of the Governor, the Legislature, the SBE, the CDE, the Education Coalition, parents, LEAs, County Offices of Education, the Committee of Practitioners, and other key advocacy groups if the results are to be implemented. No costs have been projected for local assistance and state operational costs to conduct these meetings, collect data, synthesize results, and prepare recommendations for SBE and Legislative analyses and action.

If granted, an ESEA waiver releases the SEA from complying with the requirements in ESEA Section 1116 (b) to identify for improvement, corrective action, or restructuring its Title I schools that fail, for two consecutive years or more, to make Adequate Yearly Progress (AYP). The waiver of these provisions would yield financial benefits to LEAs that are no longer required to set aside funds for supplemental educational services (SES), choice, and Title I professional development. Several sample scenarios follow.

- In a school district with 70 schools and 50,000 students, with 70 percent of its schools now in Program Improvement (PI), the district may realize as much as $5.4 million from its savings of Title I SES, choice, and professional development set asides. However, this same district might spend as much as $ 21.9 million to $26.9 million to implement required initiatives, serve priority and focus schools, purchase CCSS materials, conduct required CCSS and ELP professional development, provide teacher collaboration time, and absorb the additional costs for teacher and administrator evaluation and support.

- In another school district with 40 schools and 30,000 students, with three-fourths of its schools in PI, the district may realize $3.2 million from its Title I SES, choice and professional development set asides. However, this district might spend as much as $12.1 million to $14.9 million to implement required initiatives, serve priority and focus schools, purchase CCSS materials, conduct required CCSS and ELP professional development, provide teacher collaboration time, and absorb the additional costs for teacher and administrator evaluation and support.

- In a much smaller school district with only five schools and 8,000 students, with two of its schools in PI, the district may realize $93,600 from its savings of Title I SES, choice, and professional development set asides. However, this same district might spend as much as $ 4.1 million to $ 4.9 million to implement required initiatives, serve priority and focus schools, purchase CCSS materials, conduct required CCSS and ELP professional development, provide teacher

collaboration time, and absorb the additional costs for teacher and administrator evaluation and support.

This analysis is based upon a sample of LEAs implementing the waiver requirements and full implementation of the CCSS. None of the LEAs included in the analysis is predicted to experience a net savings.

A tabled summary of this analysis follows.

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	**Description**	**Legislation Required**	**SEA Projected Cost**	**Projected Cost per LEA**	**Total Projected Cost to LEAs with Priority Schools**	**Projected Cost Range per LEA**	
						Low	**High**
Principle 1: College- and Career- Ready Expectations for All Students							
1.A Adopt college- and career-ready (CCR) standards in at least reading/language arts and mathematics.	Amend EC 60605.8 to allow SBE to adopt ELA anchor standards	Yes	To be determined	See figures below	See figures below	See figures below	See figures below
1.B Transition to and implement CCR standards no later than the 2013−2014 school year.	• Option 1: Accelerated Implementation of College/Career & Common Core	Yes; *EC* 60200.7 and *EC* 60200(i) need amendment for SBE adoption	$4,200,000	$203 per student for ELA and math materials	$483,000,000	$7,900	$26,800,000
	• Option 2: Supplemental Materials to Achieve CCSS Alignment	SB 140 enrolled 10/8/11	To be determined	$2,000 per ELA and math teacher based on publisher estimate of cost of supplemental teacher materials	$237,500,000	$4,000	$14,100,000
	Common Core Professional Development	AB 250 enrolled 10/8/11	$1,200,000 (12 modules at $100,000 each)	$2,000 for 80 hours per teacher	$237,500,000	$4,000	$14,100,000

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	**Description**	**Legislation Required**	**SEA Projected Cost**	**Projected Cost per LEA**	**Total Projected Cost to LEAs with Priority Schools**	**Projected Cost Range per LEA**	
						Low	**High**
	English Learner Standards and Professional Development	SB 140 enrolled 10/8/11)	$200,000 (development); $1,200,000 (adoption); $200,000 (modules)	$1,000 for 40 hours per teacher	$118,800,000	$2,000	$7,000,000
1.C Develop and administer annual, statewide, aligned, high-quality assessments that measure student growth and are aligned to CCR standards in reading/language arts and mathematics no later than the 2014−2015 school year.	Assessments to be developed as part of California's work in the SMARTER Balanced Assessment Consortium	Potentially	$35,000,000	To be determined	To be determined	To be determined	To be determined
Principle 2: State- Developed Differentiated Recognition, Accountability, and Support							
2.A Develop and implement a state-based system of differentiated recognition, accountability, and support	Develop growth model to enable measurement of individual student progress over time; current efforts are not on track to meet the waiver timeline.	No; *EC* 52052.6	$3,000,000	To be determined	To be determined	To be determined	To be determined
	Annual cost to integrate graduation rates, develop and print individual teacher reports.	No	$250,000	To be determined	To be determined	To be determined	To be determined

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	Description	Legislation Required	SEA Projected Cost	Projected Cost per LEA	Total Projected Cost to LEAs with Priority Schools	Projected Cost Range per LEA	
						Low	High
2.B Set ambitious but achievable annual measureable objectives (AMOs)	Meet with stakeholder groups and technical team to develop AMO model	Potentially	$320,000 (Re-direct current staffing and contractor activities)	To be determined	To be determined	To be determined	To be determined
2.C Reward Schools	High performing and high progress schools will be included in the accountability and support system and may include recognition by senior state officials, press releases to local media outlets and access to special professional development opportunities.	Potentially	May be minimal	May be minimal	May be minimal	May be minimal	May be minimal

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	Description	Legislation Required	SEA Projected Cost	Projected Cost per LEA	Total Projected Cost to LEAs with Priority Schools	Projected Cost Range per LEA	
						Low	High
2.D Priority Schools	Five percent of the lowest performing schools will be identified; LEAs will implement interventions aligned with turnaround principles in each of these schools for a minimum of three years. Estimate of priority school cost is based on implementation of turnaround principles outlined in the flexibility documents.	Yes; may also require SBE action	To be determined	$500,000 per priority school (compared to $2,000,000 per SIG school)	$144,000,000 (309 schools x $500,000, less SIG funds)	$0	$11,000,000
2.E Focus Schools	Ten percent of California's Title I schools with the greatest achievement gaps will be identified as focus schools. SEA will develop criteria, but for purposes of this analysis, focus schools are funded with $75,000 for a school intervention team.	Yes; may also require SBE action	To be determined	$75,000 per focus school	$29,850,000 (Estimated 617 schools x $75,000, less SIG funds)	$0	$1,700,000
2.F Provide Incentives and Support for Other Title I Schools		Potentially; may also require SBE action	To be determined	To be determined	To be determined	To be determined	To be determined

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	Description	Legislation Required	SEA Projected Cost	Projected Cost per LEA	Total Projected Cost to LEAs with Priority Schools	Projected Cost Range per LEA	
						Low	High
2.G Build SEA, LEA, and School Capacity to Improve Student Learning	The scope of the support system for priority, focus and other Title I schools and LEA accountability and support mechanisms has not been estimated. Teacher collaboration time is included here.	Potentially; may also require SBE action	To be determined	Teacher collaboration time is projected at $55 per hour per teacher	235,000,000	$4000	$14,000,000
Principle 3: Supporting Effective Instruction and Leadership							
3.A Develop and adopt guidelines for local teacher and principal evaluation and support systems.	Develop principles for a teacher and principal evaluation system that includes information about student achievement and growth by the end of the 2011-12 school year.	Potentially; may also require SBE action	$500,000	To be determined	To be determined	To be determined	To be determined
3.B Ensure LEAs implement teacher and principal evaluation and support systems.	Each LEA develops and negotiates system and then provides training to teachers and administrators. Additional cost of $639 per educator to conduct the evaluation	Potentially	To be determined	$25,000 one time development cost; training costs to be determined; $759 per teacher evaluation cost, less $120 current per teacher cost: net $639	$75,900,000	$1,300	$4,500,000

Estimate of Potential Costs for Statewide Activities and LEAs with Priority Schools							
Requirements	Description	Legislation Required	SEA Projected Cost	Projected Cost per LEA	Total Projected Cost to LEAs with Priority Schools	Projected Cost Range per LEA	
						Low	High
Principle 4: Reducing Duplication and Unnecessary Burden							
	As part of implementation of these provisions, the SEA will evaluate and revise administrative requirements to reduce duplication and unnecessary burden on LEAs and schools.	No	To be determined	None anticipated	None anticipated	None anticipated	None anticipated

Statewide Summary of Estimated Benefits and Costs

Potential Statewide Title I Savings

Provisions	Description	Estimated Total Statewide Savings in Title I Set-Aside
The ESEA waiver no longer requires the SEA to comply with the requirements in ESEA section 1116(b) to identify for improvement, corrective action, or restructuring its Title I schools that fail, for two consecutive years or more, to make AYP.		
• SES and Choice (20%) Actual 2010-2011 Expenditures	• An LEA reserves 20% of its Title I allocation for Choice transportation and SES when a school enters PI	$207,900,000
• Professional Development (10%) Reserved 2010-2011 Amounts	• A PI school reserves 10% of its Title I allocation for PD. A PI LEA reserves 10% of its Title I allocation for PD (school allocation counts toward this requirement)	$145,725,000
	TOTAL	$353,625,000

Potential Statewide Costs to the SEA and ALL LEAs to Implement ESEA Waiver Requirements

		Estimated Total Statewide Cost	Estimated Net Costs of Waiver Statewide
• Full implementation of ESEA waiver principles and requirements using Option 1	• Option 1: Accelerated Implementation of College/Career & Common Core	$3,081,000,000	$2,727,375,000
• Full implementation of ESEA waiver principles and requirements using Option 2	• Option 2: Supplemental Materials to Achieve CCSS Alignment	$2,423,000,000	$2,069,375,000

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs Including, but Not Limited to, the School Improvement Grant and California's Striving Readers Comprehensive Literacy Plan.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

- Status of renewal of the Fiscal Year (FY) 2009 Cohort 1 School Improvement Grant (SIG) Sub-grants for local educational agencies (LEAs) and schools under Section 1003(g) of the Elementary and Secondary Education Act (ESEA).
- Status of California's application to the U.S. Department of Education (ED) for a waiver to allow carry over of 100 percent of the FY 2010 SIG allocation to be awarded combined with the FY 2011 allocation for awards beginning in the 2012–13 school year (SY).
- Status of California's request for a waiver of the timeline to implement teacher and principal evaluation systems for California LEAs that are implementing the Transformation model in their FY 2009 Cohort 1 SIG schools.
- Status of California's Striving Readers Comprehensive Literacy (SRCL) Plan as developed by the SRCL Team.

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate. No specific action is recommended at this time.

BRIEF HISTORY OF KEY ISSUES

School Improvement Grant Status of Renewal for Funding, Cohort 1, Year 2

In response to the SBE's July 2011 action to conditionally renew funding for Year 2 of Cohort 1 SIG LEAs contingent on a Corrective Action Plan to address implementation concerns identified during the monitoring and review process, the CDE developed a comprehensive timeline for creating Corrective Action Plan documents and providing

BRIEF HISTORY OF KEY ISSUES (Cont.)

feedback and technical assistance regarding SIG fiscal and programmatic findings to SIG Cohort 1 sub-grantees.

In response to the SBE's September 2011 action to authorize SBE President Michael Kirst, in conjunction with SSPI Tom Torlakson, to approve funding for Year 2 of Cohort 1, the CDE reviewed the Corrective Action Plans and provided ongoing technical assistance to each LEA on programmatic and fiscal resolution. Pursuant to SBE action, Cohort 1 Year 2 Grant Award Notifications and funding will be released once all fiscal and programmatic findings have been resolved and funding has been approved by SBE President Michael Kirst, in conjunction with SSPI Tom Torlakson.

School Improvement Grant Status of Waiver to Carry Over 100 Percent of Fiscal Year 2010

A waiver request was submitted to the ED as a result of the SBE's July 2011 action to approve a request for a waiver to carry over 100 percent of the FY 2010–11 SIG allocation to be awarded along with the FY 2011 allocation for awards beginning in the 2012–13 school year. A copy of the ED's approval of the SIG Waiver to carryover 100 Percent of FY 2010 letter is provided as Attachment 1.

The waiver allows the CDE additional time to provide the assistance necessary for LEAs to create viable proposals for implementation in the 2012–13 SY. These actions will result in refined support for Cohort II and increase all LEAs' ability to successfully compete for SIG funds and fully implement the selected intervention model. The CDE is in the process of the Cohort 2 competition and plans to award funds in early 2012; this timeline will allow LEAs sufficient time to implement the optional pre-implementation component that was introduced for FY 2010. The application due date for this cohort is November 18, 2011.

School Improvement Grant Status of Waiver of Timeline to Implement Teacher and Principal Evaluation Systems

A waiver request was submitted to the ED as a result of the SBE's September 2011 action to approve a request to apply for a waiver to permit California, in accordance with criteria the CDE develops, to permit an LEA that is implementing the transformation model in one or more schools to take additional time to develop and implement high-quality evaluation systems.

Additional Elementary and Secondary Education Act Updates as Applicable

This item will also be used for the purpose of informing the SBE about new or recent developments relating to the ESEA including any updates on the federal review of SIG and Title I.

BRIEF HISTORY OF KEY ISSUES (Cont.)

California's Striving Readers Comprehensive Literacy Plan

The SRCL Team met September 22, 2011, and reviewed the revised Plan based on team member input and public input.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its September 2011 meeting, the SBE took action to authorize SBE President Michael Kirst, in conjunction with SSPI Tom Torlakson, to approve funding for Year 2 of FY 2009 Cohort 1 SIG contingent on SIG LEAs submitting a Corrective Action Plan to address implementation concerns identified during the monitoring and review process.

At the same meeting, the SBE also approved California's application for a waiver of Section I.A.2(d)(1)(i)(B) of the final requirements for the SIG program, which requires an LEA to develop and implement teacher and principal evaluation systems that meet certain criteria during the first year a school is implementing the transformation model.

California's Striving Readers Comprehensive Literacy Plan as Developed by the Striving Readers Comprehensive Literacy Team

In March 2011 the SBE authorized the SBE President, in consultation with the SSPI, authority to submit a Draft State Striving Readers Comprehensive Literacy Plan as developed by the SRCL Plan State Literacy Team to the ED for review and consideration. The draft Plan was submitted to the ED on April 1, 2011.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact identified at this time.

ATTACHMENT(S)

Attachment 1: September 20, 2011, Letter from Michael Yudin, Acting Assistant Secretary, Office of Elementary and Secondary Education, U.S. Department of Education, regarding Approval for School Improvement Grant Waiver to Carry Over 100 percent of Fiscal Year 2010 (2 Pages)

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEP 2 0 2011

ASSISTANT SECRETARY

The Honorable Tom Torlakson
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, California 95814-5901

Dear Superintendent Torlakson:

I am writing in response to California's request for a waiver to carry over the fiscal year (FY) 2010 School Improvement Grant (SIG) funds California received under section 1003(g) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and to award those funds to local educational agencies (LEAs) through a competition to be conducted during the 2011–2012 school year. Although California already conducted its FY 2010 competition, California is requesting this waiver because it did not receive approvable LEA applications through the competition.

The U.S. Department of Education (Department) wants to promote a thoughtful and comprehensive approach to the implementation of SIG. In accordance with that goal, I am approving California's request to carry over FY 2010 SIG funds and to award those funds to LEAs through a competition conducted during the 2011-2012 school year. In particular, pursuant to my authority under section 9401 of the ESEA, I am granting a waiver of section 421(b) of the General Education Provisions Act (GEPA) (20 U.S.C. § 1225(b)) to extend the period of availability of California's FY 2010 SIG funds to September 30, 2013. This waiver is granted on the following conditions:

1. Within 30 days of the approval of this waiver request, California will submit an amendment to its FY 2010 SIG application that updates the timeline to include the dates for its second LEA competition that includes a description of how the SEA will support LEAs to improve their applications to meet the SIG requirements;
2. The revised timeline for the LEA competition will ensure that awards are made no later than February 2012;
3. California will not obligate or draw down any of its FY 2010 SIG funds until California receives approval of the amendment to its FY 2010 SIG application;
4. Through the competition conducted in the 2011–2012 school year, California will award FY 2010 SIG funds to LEAs in amounts sufficient to enable the LEAs to conduct pre-implementation, should an LEA select to do so, and the first year of full implementation of the school intervention models in the Tier I and Tier II schools for which they are awarded funds;

5. California will not combine its FY 2011 SIG funds with its FY 2010 funds to make larger awards, or to award grants to a greater number of LEAs or for a greater number of schools, through the competition conducted in the 2011–2012 school year; and
6. After receiving its FY 2011 and FY 2012 SIG funds, respectively, California will request waivers to extend the periods of availability of those funds until September 30, 2014 and September 30, 2015, respectively, so that those funds may be used for continuation grants for the FY 2010 funds awarded through the competition conducted in the 2011–2012 school year.

I appreciate the work you are doing to improve California's persistently lowest-achieving schools and to provide a high-quality education for all of your students. If you have any questions regarding this matter, please contact Carlas McCauley at carlas.mccauley@ed.gov or 202-260-0824.

Sincerely,

Michael Yudin
Acting Assistant Secretary
Office of Elementary and Secondary Education

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Assignment of Corrective Action and Associated Technical Assistance for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

California *Education Code* (*EC*) Section 52055.57(c) states that a local educational agency (LEA) identified for corrective action under the federal No Child Left Behind Act of 2001 shall be subject to one or more specific sanctions as recommended by the State Superintendent of Public Instruction (SSPI) and approved by the State Board of Education (SBE). In 2011–12, there are 55 newly identified LEAs in Cohort 5 of Program Improvement (PI) Year 3.

RECOMMENDATION

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

- Assign Corrective Action 6 and technical assistance resources to each of the 55 LEAs in Cohort 5 of PI Year 3 as indicated in Attachments 3 and 4, consistent with federal requirements to provide technical assistance to support implementation of any corrective action, and direct those LEAs to proceed with the steps outlined in California *EC* sections 52055.57 and 52059. (See Attachment 1.)

- End the requirement for LEAs in Cohorts 1, 2, and 3 that were subject to report quarterly on the implementation of their LEA Plan. (Attachment 2 will be provided as an Item Addendum.)

- Require each LEA in Cohorts 1–5 of PI Year 3 to demonstrate progress of LEA Plan implementation and monitoring through annual electronic submission of local evidence to the CDE. (Attachment 3 will be provided as an Item Addendum.)

BRIEF HISTORY OF KEY ISSUES

In accordance with the Elementary and Secondary Education Act (ESEA) Section 1116(c)(10)(C) and California *EC* Section 52055.57(c), any LEA that has advanced to PI Year 3 shall be subject to one or more of the following corrective actions as recommended by the SSPI and approved by the SBE:

1. Replacing LEA personnel who are relevant to the failure to make Adequate Yearly Progress (AYP).

2. Removing schools from the jurisdiction of the LEA and establishing alternative arrangements for the governance and supervision of those schools.

3. Appointing, by the SBE, a receiver or trustee to administer the affairs of the LEA in place of the county superintendent of schools and the governing board.

4. Abolishing or restructuring the LEA.

5. Authorizing pupils to transfer from a school operated by the LEA to a higher performing school operated by another LEA, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described in this list of allowable corrective actions.

6. Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff that offers substantial promise of improving educational achievement for high-priority pupils.

7. Deferring programmatic funds or reducing administrative funds.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Sanction Number 6 above, known as Corrective Action 6 in California, and associated technical assistance was assigned to four previous cohorts by the SBE at its March 2008, November 2008, January 2010, March 2010, and March 2011 meetings. The total number of LEAs assigned Corrective Action 6 in the previous four cohorts is 228. (Attachment 2 will be provided as an Item Addendum.)

FISCAL ANALYSIS (AS APPROPRIATE)

The California State Budget for 2011, Senate Bill 87, Item 6110-134-0890, Schedule (2), appropriated approximately $33,000,000 for LEAs in Corrective Action. California *EC* Section 52055.57(d) provides a formula to allocate $100,000 per PI school for LEAs with moderate performance problems and $50,000 per PI school for LEAs with minor or

FISCAL ANALYSIS (AS APPROPRIATE) (Cont.)

isolated (light) performance problems. No fiscal resources are identified for LEAs in PI Corrective Action that do not have any schools in PI.

There are sufficient funds in Budget Line Item 6110-134-0890 to support the recommendations in Attachment 3 that will be forthcoming as an Item Addendum. Funds will be used to support the implementation of assigned corrective actions, including professional development related to the Common Core State Standards (CCSS), and District Assistance and Intervention Team (DAIT) or other technical assistance provider recommendations. As provided in California *EC* Section 52059(f), an LEA that is required to contract with a DAIT or other technical assistance provider shall reserve funding provided for this purpose to cover the entire cost of the team or technical assistance provider before using funds for other reform activities. Costs to LEAs associated with the proposed adoption of annual electronic submission of evidence are not considered to be any greater than current costs incurred for local board review and oversight of assigned corrective actions; and may be lower for LEAs that are now required to report on a quarterly basis.

ATTACHMENT(S)

Attachment 1: California *Education Code* Sections 52055.57(d)(4) and 52059(e) (2 pages)

Attachment 2: The Local Educational Agencies in Program Improvement Year 3 Subject to Sanctions-Three Year Review Schedule will be provided in an Item Addendum.

Attachment 3: The Corrective Action 6 and Associated Technical Assistance Requirements for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3 will be provided in an Item Addendum.

Attachment 4: The Corrective Action and Technical Assistance for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3 will be provided in an Item Addendum.

California *Education Code* Sections 52055.57(d)(4) and 52059(e)

California *Education Code* (*EC)* Section 52055.57(d)(4)

A local educational agency that receives funding under this subdivision shall use the funds in accordance with Section 6316(b) and (c) of Title 20 of the United States Code. Pursuant to the technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6312(b) and (c) and Section 6317 of Title 20 of the United States Code, the Superintendent may recommend, and the state board may approve, that a local educational agency contract with a district assistance and intervention team or other technical assistance provider to receive guidance, support, and technical assistance. A district intervention and assistance team or other technical provider with which a local educational agency is required to contract shall perform the duties specified in subdivision (e) of Section 52059.

California *Education Code* (*EC)* Section 52059(e)

In accordance with paragraph (4) of subdivision (d) of Section 52055.57, the Superintendent may recommend, and the state board may approve, that a local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 contract with a district assistance and intervention team or other technical assistance provider to receive technical assistance, including, but not limited to, a needs assessment of the local educational agency.

(1) The Superintendent shall develop, and the state board shall approve, standards and criteria to be applied by a district assistance and intervention team or other technical assistance provider in carrying out its duties. The standards and criteria that a district assistance and intervention team or other technical assistance provider shall use in assessing a local educational agency shall address, at a minimum, all of the following areas:

(A) Governance.
(B) Alignment of curriculum, instruction, and assessments to state standards.
(C) Fiscal operations.
(D) Parent and community involvement.
(E) Human resources.
(F) Data systems and achievement monitoring.
(G) Professional development.

(2) Not later than 120 days after the assignment of a district assistance and intervention team or other technical assistance provider, or the next regularly scheduled meeting of the state board following the expiration of the 120 days, the team shall complete a report based on the findings from the needs assessment performed pursuant to paragraph (1). The report shall include, at a minimum, recommendations for improving the areas specified in paragraph (1) that are

found to need improvement. The report also shall address the manner in which existing resources should be redirected to ensure that the recommendations can be implemented.

(3) Not later than 30 days after completion of the report specified in paragraph (2), the governing board of the local educational agency may submit an appeal to the Superintendent to be exempted from implementing one or more of the recommendations made in the report. The Superintendent, with approval of the state board, may exempt the local educational agency from complying with one or more of the recommendations made in the report.

(4) Not later than 60 days after completion of the report, the governing board of the local educational agency shall adopt the report recommendations described in paragraph (2), as modified by any exemptions granted by the Superintendent under paragraph (3), at a regularly scheduled meeting of the governing board.

ITEM ADDENDUM

DATE: November 2, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 7 – Elementary and Secondary Education Act: Assignment of Corrective Action and Associated Technical Assistance for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3.

SUMMARY OF THE ISSUE(S)

Attachment 2 is a graphic timeline and table of the 5 cohorts in Program Improvement Year 3 including the number of LEAs and their assigned technical assistance levels.

Attachment 3 is a description of the recommendation of the corrective action, technical assistance, and associated requirements for each LEA in Cohort 5 of Program Improvement Year 3. The Adequate Yearly Progress (AYP) targets for LEAs in Cohort 5 are significantly higher than the targets for LEAs in Cohort 1. Because the measurement gap between the current Federal and State accountability systems has widened, the recommendations for technical assistance for LEAs in corrective action have evolved in response to higher levels of academic achievement demonstrated in later cohorts. To better reflect this trend, an analysis of LEA performance using the State accountability growth model is presented for SBE consideration in Attachment 4.

Attachment 4 is an application of the objective criteria for each of the 55 LEAs in Cohort 5 of Program Improvement Year 3, including recommended technical assistance levels and an analysis of 2011 Growth Academic Performance Index (API) for each LEA.

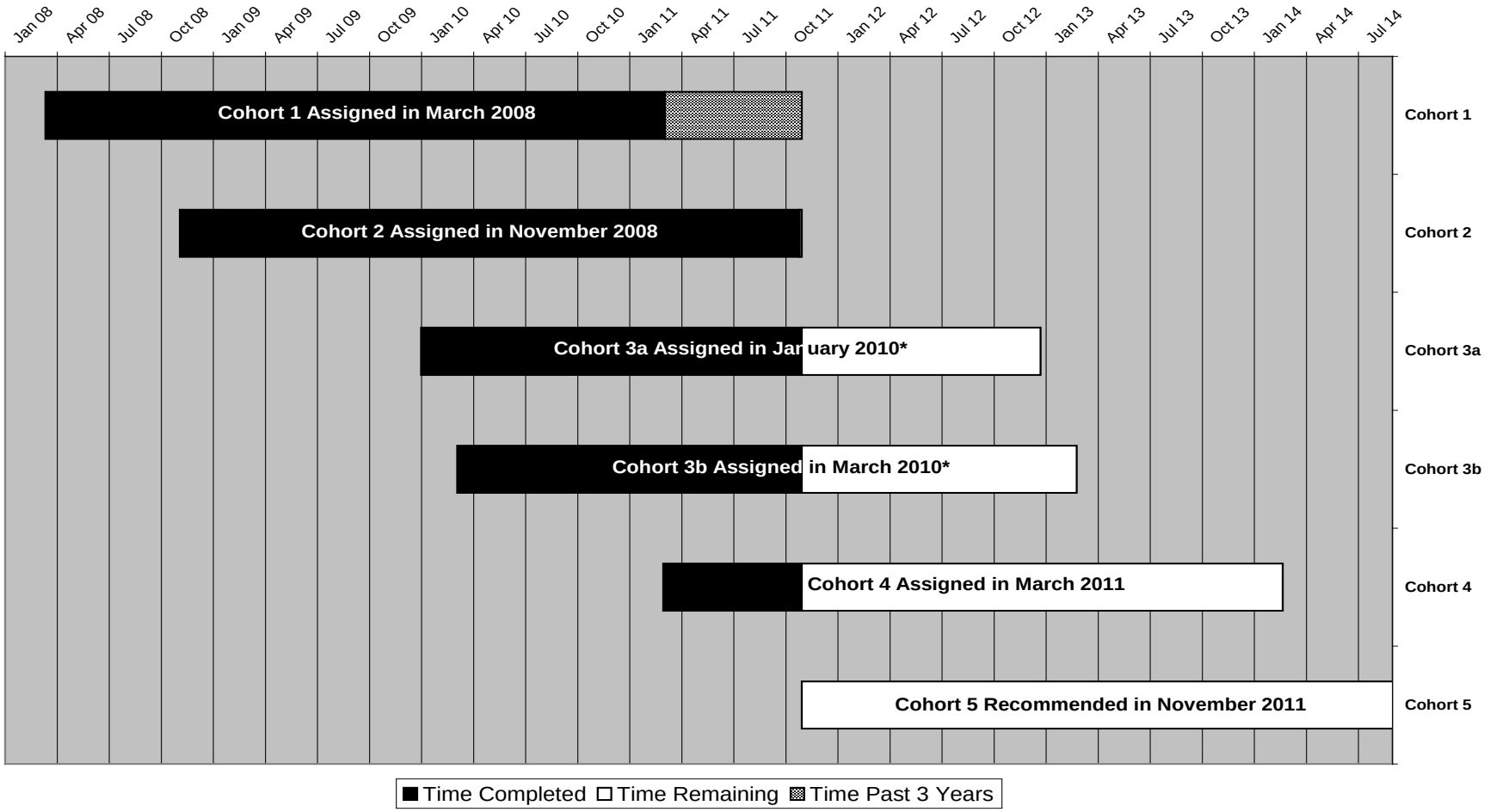
ATTACHMENT(S)

Attachment 2: Local Educational Agencies in Program Improvement Year 3 Subject to Sanctions-Three Year Review Schedule (2 Pages)

Attachment 3: Corrective Action 6 and Associated Technical Assistance Requirements for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3 (4 Pages)

Attachment 4: Application of Objective Criteria for the 55 2011 Local Educational Agencies in Cohort 5 of Program Improvement Year 3 Corrective Action (8 Pages)

Local Educational Agencies in Program Improvement Year 3 Subject to Sanctions
Three-Year Review Schedule



Local Educational Agencies in Program Improvement Year 3 Subject to Sanctions
Three-Year Review Schedule
Summary of Cohorts 1–5

Cohort	Assigned Corrective Action 6 (CA6)	Technical Assistance Level				Total Number of LEAs	Number of Schools in Program Improvement		Quarterly Reporting
		Intensive	Moderate	Light	Other		At Date of Assigned CA6	Currently	
1	March 2008	6	36	41	6	89	1,111	1,460	7
2	November 2008	1	25	24	0	50	246	379	1
3	January 2010 March 2010	1	4	24	0	29	149	202	29
4	March 2011	0	57	5	0	60	343	433	0
5	November 2011 (Recommended)	0	39	16	0	55	347	347	0
Total						283	2,196	2,821	

Updated November 2, 2011

Corrective Action 6 and Associated Technical Assistance Requirements for each of the 55 Local Educational Agencies in Cohort 5 of Program Improvement Year 3

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take the following individual actions for each of the 55 local educational agencies (LEAs) in Cohort 5 newly identified for Program Improvement (PI) Year 3 based on the 2011–12 Accountability Progress Report:

1. Assign Corrective Action 6 to each of the 55 LEAs as defined here:

   Corrective Action 6 is defined consistent with the language adopted by the SBE at its March 2010 meeting, with the addition of professional development activities to support the implementation of the Common Core State Standards (CCSS). The most recent definition of Corrective Action 6 adopted by the SBE at its March 2010 meeting is outlined in Item 23 on the SBE March 10–11, 2010, Agenda Web page at http://www.cde.ca.gov/be/ag/ag/yr10/agenda201003.asp.

   - Implement a standards-based/standards-aligned curriculum by providing:

     - SBE-adopted kindergarten through grade eight (K–8 [2001 or later]) and standards-aligned grades nine through twelve (9–12) core, and intervention materials, as appropriate, in reading/English-language arts and mathematics to all students.

     - Support for a coherent instructional program in all schools based upon full implementation of the SBE adopted/standards-aligned instructional materials in every classroom, including interventions as needed.

   - Provide appropriate professional development, including, but not limited to, materials-based professional development and use of effective instructional strategies.

   - Provide professional development related to the CCSS as materials are available, such as LEA-wide professional development to increase awareness and understanding of the main concepts of the SBE-adopted CCSS, potential areas of integration of CCSS concepts and skills with current curriculum materials, and implications for improved rigor in effective instruction, student engagement and depth of knowledge.

   - Ensure full implementation of the curriculum as measured by LEA support for implementation of the district assistance and intervention team (DAIT) standards adopted by the SBE at its September 2009 meeting (Item 6 on the SBE September 16–17, 2009, Agenda Web page at http://www.cde.ca.gov/be/ag/ag/yr09/agenda0909.asp) and the nine Essential Program Components (EPCs) for instructional success at the school level.

- Target the instructional needs of students not meeting proficiency targets, especially English learners, students with disabilities, and any racial, ethnic, and socioeconomically disadvantaged student groups not meeting standards.

2. Assign the category of light performance problems to 13 LEAs with a Relative Adequate Yearly Progress (AYP) Performance Index greater than 90 or a 2011 Growth Academic Performance Index (API) at or above 800 as an LEA and, for each significant subgroup, a 2011 API above the state average for that subgroup or above 800. Assign the category of light performance problems to 3 County Offices of Education. Assign the category of moderate performance problems to the remaining 39 LEAs.

3. Assign resources to each of the LEAs in Cohort 5 of PI Year 3 consistent with federal requirements to provide technical assistance while instituting any corrective action:

   - The 13 LEAs and 3 COEs assigned the light performance problems category will be required to access technical assistance to assist with the implementation of Corrective Action 6. The 39 LEAs assigned the moderate performance problems category in Cohort 5 will be required to contract with a self-selected DAIT or other technical assistance provider to receive guidance, support and technical assistance pursuant to the SBE-adopted standards.

   - All LEAs and COEs assigned the moderate or light performance problem categories in Cohort 5 that have PI schools will be provided with fiscal resources to access technical assistance. The purpose of the technical assistance is to analyze the needs of the LEA and its schools, amend the LEA Plan, and implement key action steps. Those LEAs in the light performance category that do not have PI schools will not receive fiscal resources to access technical assistance.

4. Require, as consistent with previous SBE action taken in March 2011, that each LEA in Cohort 5 of PI Year 3 revise its LEA Plan documenting:

   - The steps the LEA is taking to fully implement Corrective Action 6 and any additional recommendations made by a DAIT or other technical assistance provider. DAITs or other technical assistance providers will be directed to make specific recommendations to address the learning needs of any student group whose academic performance contributed to the failure of the LEA to make AYP.

   - The steps each LEA is taking to support any of its advancing PI schools to restructure and implement school-level corrective action activities.

5. Require, as consistent with previous SBE action taken in March 2011, that each LEA in Cohort 5 of PI Year 3 post its revised LEA Plan on its local Web site and

send the Web link to the CDE for posting on the CDE LEA Plans for LEAs in PI Year 3 Web page at http://www.cde.ca.gov/ta/ac/ti/leaplanpiyr3.asp.

6. Adopt the following proposed timeline for each of the Cohort 5 LEAs in PI Year 3 in 2011–12:

   November 9–10, 2011: The SBE assigns corrective actions and technical assistance to each of the 55 LEAs in Cohort 5 that advanced to PI Year 3 in 2011–12 and provides these LEAs with the opportunity to address the SBE concerning their assigned corrective action.

   February 2012: As required in California *Education Code* Section 52059(e)(2), the DAIT or other technical assistance provider completes a report that is based on the findings of the needs assessment. The report shall include, at a minimum, recommendations for improving the areas that are found to need improvement. The report also shall address the manner in which existing resources should be redirected to ensure that the recommendations can be implemented.

   March 10, 2012: Each of the LEAs in Cohort 5 of PI Year 3 submits a revised LEA Plan incorporating the recommendations for improvement and the redirection of resources outlined in the DAIT or technical assistance provider's report to the CDE for review and feedback.

   March 2012: The governing board of the LEA submits any appeals to the State Superintendent of Public Instruction (SSPI) to be exempted from implementing one or more of the recommendations made in the report. The SSPI, with approval of the SBE, may exempt the LEA from complying with one or more of the recommendations made in the report.

   March 2012: The CDE reviews the revised LEA plans and provides feedback to the LEAs based upon an SBE-approved rubric.

   April 2012: The CDE reports to the SBE on its review of the Cohort 5 LEA revised plans.

   April 2012: The governing board of the LEA shall adopt the report recommendations described in paragraph (2), as modified by any exemptions granted by the SSPI under paragraph (3), and the revised LEA Plan at a regularly scheduled meeting of the governing board.

   May 2012: Cohort 5 LEAs post their LEA Plans on local Web sites.

7. Require each LEA in Cohorts 1–5 of PI Year 3 to demonstrate progress of LEA Plan implementation and monitoring through annual electronic submission of local evidence to the CDE as described here:

- A mid-year and end-of-year summary description of the LEA's progress towards implementation of the strategies and actions in the LEA plan.

- Documentation of a mid-year and end-of-year data analysis of the LEA's progress towards student achievement goals in the LEA Plan based on local assessment data.

- Documentation of annual communication with the local governing board regarding the LEA's progress toward student achievement goals in the LEA Plan.

Application of Objective Criteria for the 55 2011 Local Educational Agencies in Cohort 5 of Program Improvement Year 3 Corrective Action

County District Code	County Name	District Name	Component 1: Percentage of AYP Targets Met		Component 2: Relative AYP Performance		Component 3: Percentage of Title I Schools Not In PI				Component 4: Relative Growth in API Over Time			Component 5: Relative API Performance			2011 Objective Criteria Index Value	2011 Objective Criteria Index Rank	Differentiated Technical Assistance
			Percent AYP Targets Met	Rank	Relative AYP Performance	Rank	Number Schools Not In PI	Number Title I Schools	Percent of Title I Schools Not in PI	Rank	API Growth Over Three API Cycles	Relative API Growth Over Time	Rank	2011 Growth API Score	Relative API Performance	Rank			
1964212	Los Angeles	ABC Unified	80.95	51	97.02	53	5	14	35.71	35	39	65.00	37	833	91.13	48	73.96	50	Light
1975713	Los Angeles	Alhambra Unified	70.59	48	91.46	48	10	17	58.82	49	45	75.00	44	828	90.04	46	77.18	52	Light
0961853	El Dorado	El Dorado Union High	72.73	49	96.88	52	7	8	87.50	53	15	25.00	10	834	91.34	50	74.69	51	Light
1275515	Humboldt	Eureka City Unified	89.47	55	99.38	55	2	5	40.00	38	27	45.00	23	779	79.44	27	70.66	48	Light
1262810	Humboldt	Fortuna Union High	57.14	39	90.50	47	1	1	100.00	54	26	43.33	21	727	68.18	13	71.83	49	Light
3467348	Sacramento	Galt Joint Union Elementary	16.67	12	73.62	25	1	5	20.00	22	55	91.67	52	825	89.39	45	58.27	28	Light
2265532	Mariposa	Mariposa County Unified	18.18	13	77.16	30	7	11	63.64	51	50	83.33	49	801	84.20	38	65.30	43	Light
4369575	Santa Clara	Moreland Elementary	68.75	47	93.48	50	1	1	100.00	55	51	85.00	51	874	100.00	55	89.45	55	Light
3066613	Orange	Ocean View	62.50	42	89.76	46	3	7	42.86	40	29	48.33	25	868	98.70	54	68.43	47	Light
3066621	Orange	Orange Unified	85.71	53	89.64	45	1	15	6.67	20	38	63.33	35	823	88.96	44	66.86	46	Light
3310330	Riverside	Riverside COE	14.29	8	13.06	2	0	3	0.00	2	-7	-11.67	3	549	29.65	3	9.07	2	Light
1563750	Kern	Rosedale Union Elementary	62.50	43	93.31	49	1	2	50.00	47	58	96.67	54	833	91.13	49	78.72	54	Light
3610363	San Bernardino	San Bernardino COE	88.89	54	97.56	54	2	8	25.00	27	40	66.67	38	524	24.24	2	60.47	32	Light
4169047	San Mateo	San Mateo Union High	57.89	40	86.40	44	1	4	25.00	26	30	50.00	26	814	87.01	40	61.26	34	Light
2165466	Marin	San Rafael City High	81.82	52	93.72	51	1	2	50.00	48	50	83.33	48	785	80.74	30	77.92	53	Light
5110512	Sutter	Sutter COE	0.00	1	54.69	10	0	1	0.00	7	-123	-205.00	1	412	0.00	1	-30.06	1	Light
1964279	Los Angeles	Azusa Unified	0.00	4	37.79	4	3	11	27.27	29	60	100.00	55	732	69.26	16	46.86	15	Moderate
3066456	Orange	Buena Park Elementary	38.89	23	68.90	20	1	7	14.29	21	48	80.00	46	816	87.45	42	57.91	27	Moderate
4369393	Santa Clara	Campbell Union	44.44	30	78.91	36	1	4	25.00	25	44	73.33	41	834	91.34	52	62.60	37	Moderate
3667678	San Bernardino	Chino Valley Unified	42.86	27	83.18	39	5	14	35.71	34	33	55.00	31	813	86.80	39	60.71	33	Moderate
5271506	Tehama	Corning Union High	66.67	46	77.06	29	1	2	50.00	44	17	28.33	12	707	63.85	8	57.18	26	Moderate
3667694	San Bernardino	Cucamonga Elementary	8.33	7	60.76	14	2	4	50.00	42	36	60.00	33	776	78.79	25	51.58	20	Moderate
1964451	Los Angeles	Downey Unified	57.89	41	77.67	33	6	15	40.00	37	45	75.00	42	788	81.39	31	66.39	44	Moderate
3467314	Sacramento	Elk Grove Unified	44.00	28	76.01	28	0	12	0.00	14	27	45.00	22	800	83.98	37	49.80	18	Moderate
5071076	Stanislaus	Empire Union Elementary	7.14	5	55.19	12	0	5	0.00	9	14	23.33	7	783	80.30	29	33.19	8	Moderate
4269203	Santa Barbara	Guadalupe Union Elementary	0.00	2	0.00	1	0	2	0.00	1	-2	-3.33	4	696	61.47	4	11.63	3	Moderate
1663925	Kings	Hanford Joint Union High	63.64	45	85.49	41	0	3	0.00	18	58	96.67	53	731	69.05	14	62.97	38	Moderate
4168916	San Mateo	Jefferson Elementary	45.00	31	75.99	27	3	10	30.00	30	37	61.67	34	796	83.12	34	59.16	30	Moderate

County District Code	County Name	District Name	Component 1: Percentage of AYP Targets Met		Component 2: Relative AYP Performance		Component 3: Percentage of Title I Schools Not In PI				Component 4: Relative Growth in API Over Time			Component 5: Relative API Performance			2011 Objective Criteria Index Value	2011 Objective Criteria Index Rank	Differentiated Technical Assistance
			Percent AYP Targets Met	Rank	Relative AYP Performance	Rank	Number Schools Not In PI	Number Title I Schools	Percent of Title I Schools Not in PI	Rank	API Growth Over Three API Cycles	Relative API Growth Over Time	Rank	2011 Growth API Score	Relative API Performance	Rank			
2465730	Merced	Le Grand Union High	55.56	37	77.36	31	1	2	50.00	45	20	33.33	14	705	63.42	7	55.93	25	Moderate
1663974	Kings	Lemoore Union Elementary	75.00	50	82.70	38	0	5	0.00	17	35	58.33	32	771	77.71	23	58.75	29	Moderate
1663982	Kings	Lemoore Union High	45.45	32	74.48	26	1	2	50.00	43	45	75.00	43	748	72.73	20	63.53	40	Moderate
3968569	San Joaquin	Lincoln Unified	26.32	16	68.31	19	0	9	0.00	11	25	41.67	18	789	81.60	32	43.58	14	Moderate
4369583	Santa Clara	Morgan Hill Unified	31.58	18	69.98	22	0	6	0.00	12	14	23.33	8	779	79.44	26	40.87	12	Moderate
3768213	San Diego	Mountain Empire Unified	36.36	22	78.73	35	8	11	72.73	52	40	66.67	39	735	69.91	17	64.88	42	Moderate
4369591	Santa Clara	Mountain View Whisman	42.11	25	71.78	23	2	5	40.00	36	31	51.67	27	834	91.34	51	59.38	31	Moderate
0161234	Alameda	Newark Unified	31.58	19	60.58	13	2	6	33.33	32	21	35.00	15	773	78.14	24	47.73	16	Moderate
2773825	Monterey	North Monterey County Unified	7.69	6	19.27	3	0	5	0.00	3	22	36.67	17	703	62.99	6	25.32	5	Moderate
1964840	Los Angeles	Norwalk-La Mirada Unified	47.37	33	67.41	18	5	16	31.25	31	51	85.00	50	764	76.19	21	61.44	36	Moderate
2165417	Marin	Novato Unified	52.63	35	83.93	40	4	9	44.44	41	21	35.00	16	833	91.13	47	61.43	35	Moderate
4970847	Sonoma	Old Adobe Union	16.67	10	65.69	16	0	2	0.00	10	16	26.67	11	815	87.23	41	39.25	10	Moderate
1175481	Glenn	Orland Joint Unified	23.08	15	41.77	6	0	4	0.00	4	14	23.33	6	727	68.18	12	31.27	7	Moderate
5472041	Tulare	Pixley Union Elementary	16.67	11	54.72	11	0	2	0.00	8	39	65.00	36	708	64.07	9	40.09	11	Moderate
5271639	Tehama	Red Bluff Joint Union High	33.33	20	77.42	32	0	2	0.00	15	48	80.00	45	732	69.26	15	52.00	22	Moderate
3667868	San Bernardino	Rim of the World Unified	53.85	36	86.13	42	3	6	50.00	46	31	51.67	28	780	79.65	28	64.26	41	Moderate
1973452	Los Angeles	Rowland Unified	42.86	26	63.31	15	4	15	26.67	28	28	46.67	24	792	82.25	33	52.35	23	Moderate
3567538	San Benito	San Benito High	63.64	44	86.30	43	0	2	0.00	19	20	33.33	13	745	72.08	19	51.07	19	Moderate
3768338	San Diego	San Diego Unified	44.00	29	68.99	21	54	152	35.53	33	50	83.33	47	798	83.55	36	63.08	39	Moderate
4369666	Santa Clara	San Jose Unified	34.78	21	66.74	17	4	19	21.05	23	32	53.33	29	798	83.55	35	51.89	21	Moderate
0161291	Alameda	San Leandro Unified	28.57	17	44.92	7	0	7	0.00	5	26	43.33	19	738	70.56	18	37.48	9	Moderate
4169039	San Mateo	San Mateo-Foster City	40.00	24	72.71	24	0	6	0.00	13	26	43.33	20	840	92.64	53	49.74	17	Moderate
2165458	Marin	San Rafael City Elementary	57.14	38	77.71	34	3	7	42.86	39	41	68.33	40	817	87.66	43	66.74	45	Moderate
1864196	Lassen	Susanville Elementary	50.00	34	81.89	37	0	3	0.00	16	33	55.00	30	769	77.27	22	52.83	24	Moderate
1764063	Lake	Upper Lake Union Elementary	22.22	14	45.13	8	0	1	0.00	6	11	18.33	5	697	61.69	5	29.47	6	Moderate
2365623	Mendocino	Willits Unified	15.38	9	48.15	9	5	8	62.50	50	14	23.33	9	716	65.80	10	43.03	13	Moderate
1162661	Glenn	Willows Unified	0.00	3	39.54	5	1	4	25.00	24	-23	-38.33	2	723	67.32	11	18.71	4	Moderate

This list includes any Local Educational Agency (LEA) in Cohort 5 with a district 2011 growth API at or above 800. Any LEA with shading is recommended for moderate technical assistance per the description in Attachment 3, Page 3, Number 3.

technical assistance per the description in Attachment 3, Page 2, Number 2.

	All Grades	Elementary	Middle	High
State 2011 Growth API	778	808	778	742
Black or African American	696	738	692	650
American Indian or Alaska Native	733	763	730	703
Asian	898	918	913	866
Filipino	859	886	871	824
Hispanic or Latino	729	763	724	688
Native Hawaiian or Pacific Islander	764	800	768	720
White	845	873	850	810
Two or More Races	836	871	837	786
Socioeconomically Disadvantaged	726	758	719	684
English Learners	707	756	680	640
Students with Disabilities	595	662	566	501

	2010 Base API	2011 Growth API		
Rank 10	District	District	Elementary	Difference
Old Adobe Union (K-6)	818	815	808	7
Hispanic or Latino	749	735	763	-28
White	857	861	873	-12
Socioeconomically Disadvantaged	751	743	758	-15
English Learners	742	739	756	-17
Students with Disabilities	693	703	662	41

	2010 Base API	2011 Growth API				
Rank 17	District	District	Elementary	Difference	Middle	Difference
San Mateo-Foster City (K-8)	839	840	808	32	778	62
Black or African American	742	736	738	-2	692	44
Asian	954	941	918	23	913	28
Hispanic or Latino	718	715	763	-48	724	-9
Native Hawaiian or Pacific Islander	740	753	800	-47	768	-15
White	895	899	873	26	850	49
Two or More Races	885	881	871	10	837	44
Socioeconomically Disadvantaged	709	708	758	-50	719	-11
English Learners	726	731	756	-25	680	51
Students with Disabilities	670	673	662	11	566	107

	2010 Base API	2011 Growth API		
Rank 18	District	District	State	Difference
Elk Grove Unified	791	800	778	22
Black or African American	699	701	696	5
American Indian or Alaska Native	723	731	733	-2
Asian	835	849	898	-49
Filipino	856	865	859	6
Hispanic or Latino	746	754	729	25
Native Hawaiian or Pacific Islander	774	774	764	10

White	844	852	845	7
Two or More Races	803	826	836	-10
Socioeconomically Disadvantaged	737	747	726	21
English Learners	741	746	707	39
Students with Disabilities	573	583	595	-12

	2010 Base API	2011 Growth API				
Rank 27	District	District	Elementary	Difference	Middle	Difference
Buena Park Elementary (K-8)	811	816	808	8	778	38
Black or African American	782	779	738	41	692	87
Asian	939	946	918	28	913	33
Filipino	906	913	886	27	871	42
Hispanic or Latino	767	773	763	10	724	49
White	848	858	873	-15	850	8
Socioeconomically Disadvantaged	774	785	758	27	719	66
English Learners	791	789	756	33	680	109
Students with Disabilities	624	644	662	-18	566	78

	2010 Base API	2011 Growth API				
Rank 28	District	District	Elementary	Difference	Middle	Difference
Galt Joint Union Elementary (K-8)	811	825	808	17	778	47
Hispanic or Latino	774	788	763	25	724	64
White	862	868	873	-5	850	18
Socioeconomically Disadvantaged	765	785	758	27	719	66
English Learners	742	761	756	5	680	81
Students with Disabilities	637	688	662	26	566	122

	2010 Base API	2011 Growth API				
Rank 31	District	District	Elementary	Difference	Middle	Difference
Mountain View Whisman (K-8)	826	834	808	26	778	56
Asian	938	939	918	21	913	26
Filipino	890	873	886	-13	871	2
Hispanic or Latino	728	741	763	-22	724	17
White	932	937	873	64	850	87
Two or More Races	928	924	871	53	837	87
Socioeconomically Disadvantaged	723	735	758	-23	719	16
English Learners	745	754	756	-2	680	74
Students with Disabilities	585	595	662	-67	566	29

	2010 Base API	2011 Growth API		
Rank 33	District	District	State	Difference
Chino Valley Unified	811	813	778	35
Black or African American	795	792	696	96
Asian	932	937	898	39
Filipino	900	902	859	43
Hispanic or Latino	762	766	729	37
White	845	847	845	2
Two or More Races	861	860	836	24
Socioeconomically Disadvantaged	739	745	726	19

English Learners	710	725	707	18
Students with Disabilities	589	587	595	-8

	2010 Base API	2011 Growth API		
Rank 34	District	District	High	Difference
San Mateo Union High (9-12)	797	814	742	72
Asian	892	900	866	34
Hispanic or Latino	678	707	688	19
White	832	856	810	46
Two or More Races	677	842	786	56
English Learners	726	695	640	55
Students with Disabilities	536	537	501	36

	2010 Base API	2011 Growth API		
Rank 35	District	District	State	Difference
Novato Unified	827	833	778	55
Black or African American	690	683	696	-13
Asian	918	931	898	33
Hispanic or Latino	730	745	729	16
White	876	879	845	34
Two or More Races	861	866	836	30
Socioeconomically Disadvantaged	723	731	726	5
English Learners	703	720	707	13
Students with Disabilities	618	654	595	59

	2010 Base API	2011 Growth API				
Rank 37	District	District	Elementary	Difference	Middle	Difference
Campbell Union (K-8)	830	834	808	26	778	56
Black or African American	804	801	738	63	692	109
Asian	943	948	918	30	913	35
Filipino	901	913	886	27	871	42
Hispanic or Latino	740	750	763	-13	724	26
White	907	910	873	37	850	60
Socioeconomically Disadvantaged	740	750	758	-8	719	31
English Learners	763	767	756	11	680	87
Students with Disabilities	631	627	662	-35	566	61

	2010 Base API	2011 Growth API		
Rank 43	District	District	State	Difference
Mariposa County Unified	796	801	778	23
Hispanic or Latino	764	767	729	38
White	808	814	845	-31
Socioeconomically Disadvantaged	764	775	726	49
Students with Disabilities	663	663	595	68

	2010 Base API	2011 Growth API				
Rank 45	District	District	Elementary	Difference	Middle	Difference
San Rafael City Elementary (K-8)	795	817	808	9	778	39

San Rafael City Elementary (K-8)	795	817	808	9	778	39
Asian	906	912	918	-6	913	-1
Hispanic or Latino	717	749	763	-14	724	25
White	937	942	873	69	850	92
Socioeconomically Disadvantaged	714	747	758	-11	719	28
English Learners	708	740	756	-16	680	60
Students with Disabilities	661	648	662	-14	566	82

	2010 Base API	2011 Growth API		
Rank 46	District	District	State	Difference
Orange Unified	806	823	778	45
Black or African American	765	783	696	87
Asian	928	935	898	37
Filipino	878	891	859	32
Hispanic or Latino	728	754	729	25
Native Hawaiian or Pacific Islander	765	795	764	31
White	865	878	845	33
Two or More Races	876	895	836	59
Socioeconomically Disadvantaged	719	745	726	19
English Learners	689	724	707	17
Students with Disabilities	594	656	595	61

	2010 Base API	2011 Growth API				
Rank 47	District	District	Elementary	Difference	Middle	Difference
Ocean View (K-8)	857	868	808	60	778	90
Asian	927	946	918	28	913	33
Hispanic or Latino	779	793	763	30	724	69
White	891	899	873	26	850	49
Two or More Races	910	917	871	46	837	80
Socioeconomically Disadvantaged	772	791	758	33	719	72
English Learners	775	785	756	29	680	105
Students with Disabilities	657	682	662	20	566	116

	2010 Base API	2011 Growth API		
Rank 50	District	District	State	Difference
ABC Unified	823	833	778	55
Black or African American	763	775	696	79
Asian	937	944	898	46
Filipino	883	897	859	38
Hispanic or Latino	740	756	729	27
Native Hawaiian or Pacific Islander	799	811	764	47
White	818	829	845	-16
Two or More Races	856	881	836	45
Socioeconomically Disadvantaged	743	763	726	37
English Learners	747	759	707	52
Students with Disabilities	621	629	595	34

	2010 Base API	2011 Growth API		
Rank 51	District	District	High	Difference

El Dorado Union High (9-12)	828	834	742	92
Asian	912	918	866	52
Hispanic or Latino	761	816	688	128
White	835	839	810	29
Two or More Races	805	837	786	51
Socioeconomically Disadvantaged	722	741	684	57
Students with Disabilities	519	520	501	19

	2010 Base API	2011 Growth API		
Rank 52	District	District	State	Difference
Alhambra Unified	816	828	778	50
Asian	885	894	898	-4
Filipino	862	878	859	19
Hispanic or Latino	725	739	729	10
White	816	828	845	-17
Socioeconomically Disadvantaged	800	808	726	82
English Learners	787	818	707	111
Students with Disabilities	596	608	595	13

	2010 Base API	2011 Growth API				
Rank 54	District	District	Elementary	Difference	Middle	Difference
Rosedale Union Elementary (K-8)	815	833	808	25	778	55
Black or African American	782	790	738	52	692	98
Asian	898	909	918	-9	913	-4
Hispanic or Latino	763	784	763	21	724	60
White	830	848	873	-25	850	-2
Socioeconomically Disadvantaged	743	772	758	14	719	53
English Learners	746	767	756	11	680	87
Students with Disabilities	585	694	662	32	566	128

	2010 Base API	2011 Growth API				
Rank 55	District	District	Elementary	Difference	Middle	Difference
Moreland Elementary (K-8)	870	874	808	66	778	96
Asian	954	969	918	51	913	56
Hispanic or Latino	762	779	763	16	724	55
White	911	907	873	34	850	57
Two or More Races	908	917	871	46	837	80
Socioeconomically Disadvantaged	761	774	758	16	719	55
English Learners	820	801	756	45	680	121
Students with Disabilities	671	689	662	27	566	123

Prepared by California Department of Education
November 3, 2011

ITEM #W-1

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by one county offices of education and two school districts to waive portions of *California Code of Regulations*, Title 5, Section 11960(a), to allow charter school attendance to be calculated as if it were a regular multi-track school. Waiver Numbers: Raisin City Elementary 31-8-2011 Adelanto Elementary 32-8-2011 Alameda County Office of Education 23-8-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of waiver Alameda County Office of Education 23-8-2011 with the following conditions:

1. The charter school will operate two tracks; each will offer a minimum of 175 days and required number of minutes.

2. For each track, each charter school will offer the minimum annual instructional minutes as specified by *EC* Section 47612.5.

3. No track will have fewer than 55 percent of its school days completed prior to April 15.

4. ADA will be calculated separately for each track by the method set forth in 5 *CCR*, Section 11960, and then the resulting attendance figures will be totaled.

5. For each pupil attending more than one track, attendance will be calculated individually by pupil. For each pupil, divide the total days of attendance by the number of days in the first track prior to the beginning of the P-2 track, plus the number of days in the P-2 track, plus, when the student is enrolled during an intersession, all the days in the intersession, minus any days of vacation that occur during the time the pupil is assigned to a track that are not days of vacation in the pupil's P-2 track.

RECOMMENDATION (Cont.)

6. Because this waiver is granted on permanent basis for two consecutive years, *EC* 33051(b) will apply, and the Alameda County Office of Education will not be required to reapply annually if information contained in the request remains current.

The CDE recommends approval of waivers Raisin City Elementary 31-8-2011 and Adelanto Elementary 32-8-2011, with the following conditions:

1. Each charter school will operate five tracks; each will offer a minimum of 175 days.

2. For each track, each charter school will offer the minimum annual instructional minutes as specified by California *Education Code* (*EC*) Section 47612.5.

3. No track will have fewer than 55 percent of its school days completed prior to April 15.

4. Average daily attendance (ADA) will be calculated separately for each track by the method set forth in *California Code of Regulations* Title 5 (5 *CCR*), Section 11960, and then the resulting attendance figures will be totaled.

5. For each pupil attending more than one track, attendance will be calculated individually by pupil. For each pupil, divide the total days of attendance by the number of days in the first track prior to the beginning of the P-2 track, plus the number of days in the P-2 track, plus, when the student is enrolled during an intersession, all the days in the intersession, minus any days of vacation that occur during the time the pupil is assigned to a track that are not days of vacation in the pupil's P-2 track.

6. Each waiver is not permanent and granted for two years minus one day, and the districts will be required to reapply annually.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its July 2000 meeting, the State Board of Education (SBE) approved SBE's Policy #00-05 Charter School ADA: Alternative Calculation Method, available at http://www.cde.ca.gov/re/lr/wr/documents/charterschoolada.doc, which applies to this waiver request. Many multi-track calendar waivers for charter schools have been approved by the SBE in the past eleven years.

SUMMARY OF KEY ISSUES

Section 11960(a) of 5 *CCR* defines regular ADA in a charter school and establishes the calculation for determining ADA. The calculation divides the total number of pupil-days attended by the total number of days school was actually taught. This section also requires a proportional reduction in a charter school's funding for each day less than 175 days if the school operates fewer than 175 days in any fiscal year.

As referenced in the SBE Policy #00-05:

> "Attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

A multi-track calendar waiver is typically requested by charter schools that operate on a multi-track, year-round education calendar in order to claim the full ADA. In a multi-track calendar, the total number of days that school is taught may exceed 200 days. However, each track of students is only provided instruction for the number of days in a given track, typically 175 or 180 days. Therefore, a waiver is necessary for a multi-track charter school to separately calculate ADA in each track, rather than for the school as a whole.

Alameda COE is requesting a waiver on behalf of one countywide benefit charter school with two sites, one serving pupils in grades kindergarten through grade six and another one serving pupils in grades nine through twelve. The two sites have separate campuses, administrative teams, and instructional calendars offering the statutory required number of instructional minutes and days. This waiver would allow the school to report separate attendance records for each site.

Ventura COE and Adelanto Elementary School District (ESD) are requesting these waivers on behalf of two charter schools to allow the charter schools to operate on a five-track calendar. These schools serve at-risk pupil populations who will benefit from a year round instruction with staggered start dates to ensure they stay on track to graduate.

Waivers of this section will allow the schools to operate multiple tracks with the required minimum days of instruction and separately calculate the ADA for each track, rather than for entire schools. This is consistent with how ADA is calculated for a regular school with multiple tracks. No track has fewer than 55 percent of its school days occurring prior to April 15, one criterion of the SBE waiver policy.

SUMMARY OF KEY ISSUES (Cont.)

Raisin City ESD is requesting a waiver on behalf of Ambassador Phillip Sanchez Charter School. This waiver is being requested because the school proposes to operate a multi-track year round education calendar, with no more than 5 tracks. As a result, the number of days this school is actually teaching per year is 240. However, each track of students will be offered a minimum of 175 days of instruction and no track will have fewer than 55 percent of its school days prior to April 15.

Consequently, the waiver is requested to separately calculate ADA in each track. This is the same method required for non-charter schools that operate on a multi-track year round calendar. The reason for operating a multi-track calendar is that the school is an Alternative Schools Accountability Model school and its student population is comprised of mainly at-risk students who will benefit from a year round calendar which will help them catch up academically and graduate on time.

On the basis of this analysis and with the conditions as listed, the Department recommends approval of these waivers with the conditions noted above.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: See each individual waiver.

Authority for Waiver: *EC* Section 33050

Period of request: See each individual waiver.

Local board approval date(s): See Attachment 1

Public hearing held on date(s): See Attachment 1

Bargaining unit(s) consulted on date(s): None of the charter schools has a bargaining unit.

Name of bargaining unit/representative(s) consulted: None of the charter schools has a bargaining unit.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate): None of the charter schools has a bargaining unit.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☐ posting at each school ☒ other (specify) See each individual waiver.

Advisory committee(s) consulted: See Attachment 1

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: See Attachment 1

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENTS

Attachment 1: Summary Table (1 Page)

Attachment 2: Raisin City Elementary School District General Waiver Request (2 Pages)

Attachment 3: Adelanto Elementary School District General Waiver Request (2 Pages)

Attachment 4: School Calendar 2011-2012 for Ambassador Phillip V. Sanchez Charter School, Alta Vista Pubic Charter, Inc.

Attachment 5: School Calendar 2012-2013 for Ambassador Phillip V. Sanchez Charter School, Alta Vista Pubic Charter, Inc.

Attachment 6: Alameda County Office of Education General Waiver Request (2 Pages)

Attachment 7: School Calendar 2011-2012 Aspire California College Prep

Attachment 8: School Calendar 2011-2012 Aspire College Academy

	California State Board of Education Policy	POLICY #
		00-05
	WAIVER GUIDELINES Charter School Average Daily Attendance: Alternative Calculation Method	DATE July 2000

REFERENCES

Education Code (EC) Sections 33050 et seq. (General Waiver Authority), 41420 (Minimum Instructional Days, Attendance Reporting), 46301 (Independent Study Apportionments), and 47612 (Minimum Instructional Minutes).

HISTORICAL NOTES

None.

Title 5, California Code of Regulations (5 CCR), Section 11960:
Regular Average Daily Attendance for Charter Schools.

5 CCR 11960 defines regular average daily attendance (ADA) in a charter school, and established the calculation for determining ADA. The calculation divides the total number of pupil-days attended by the total number of days school was actually taught. This section also requires a proportional reduction in a charter school's funding for each day less than 175 if the school operates fewer than 175 days in any fiscal year. Specifically, the section states:

> (a) As used in *EC* Section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.
>
> (b) The State Superintendent of Public Instruction shall proportionately reduce the amount of funding that would otherwise have been apportioned to a charter school on the basis of average daily attendance for a fiscal year, if school was actually taught in the charter school on fewer than 175 calendar days during that fiscal year.

Background

This waiver is typically requested by charter schools that operate on a multi-track year-round education calendar. In a multi-track calendar, the *total* number of days that school is taught may actually exceed 200 days. However, each track of students is only provided instruction for the number of days in a given track, typically 175 days. Therefore, a waiver would be necessary for a multi-track charter school to separately calculate ADA in each track, rather than for the school as a whole.

Evaluation Guidelines

A waiver of this regulation is necessary for a charter school that operates on a multi-track calendar to separately calculate ADA in each track, rather than using the total number of days school is actually taught as the basis for a single, overall ADA calculation. In order to evaluate any such waiver request, the State Board of Education (SBE) asks that those districts applying for such a waiver provide documentation which the California Department of Education (CDE) professional staff are then asked to use in reviewing and making recommendations about the request. The waiver request should include the following:

1. Identification of the charter school for which the district is requesting the waiver;

2. A copy of the charter school's calendar for the year(s) for which the waiver is requested;

3. The number of tracks that the school operates;

4. The total number of days school is taught in the charter school;

5. The total number of days school is taught in each track; and,

6. The reason why the school is operating on multi-track.

Possible reasons for operating a multi-track calendar might include:

- The charter school is a conversion of an existing school which operated on a multi-track calendar prior to conversion.

- The school has limited facilities which require multi-track operation to adequately house the pupil population.

- The educational program, or target population of the school is best served by offering multiple tracks, for reasons explained in the waiver application.

In addition to a description of the school's program as set forth above, the waiver request must provide assurances that the charter school will meet the following terms as a condition of approval of the waiver:

1. If the charter school is a start-up school, it will operate not more than five tracks; if it is a conversion school, it will operate no more than the number of tracks it operated prior to conversion;

2. If the charter school is a start-up school, each track will operate a minimum of 175 days; if the charter school is a conversion school, the school may continue its

previous schedule as long as it provides no less than 163 days of instruction in each track;

3. For each track, the charter school will provide the total number of instructional minutes contained in Education Code Section 46201.5(a)(2);

4. No track will have fewer than 55 percent of its school days prior to April 15; and

5. ADA will be calculated separately for each track by the method set forth in 5 CCR 11960, and then the resulting figures will be totaled.

Summary Table					
Waiver Number	**School District**	**Local Board Approval Date**	**Advisory Committee Consulted**	**Public Hearing Date**	**Period of Request**
31-8-2011	Raisin City Elementary School District on behalf of Ambassador Phillip V. Sanchez Charter	June 8, 2011	District Advisory Council	May 18, 2011	July 1, 2011 to June 29, 2013
32-8-2011	Adelanto Elementary School District on behalf of Alta Vista Public Charter, Inc.	May 17, 2011	District Advisory Council	May 11, 2011	July 1, 2011 to June 29, 2013
23-8-2011	Alameda County Office of Education on behalf of Aspire California College Preparatory and Aspire College Academy	August 23, 2011	Aspire Board of Directors	August 23, 2011	July 1, 2011 to June 30, 2013

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 11-30-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE

Local educational agency: Raisin City Elementary School District **on behalf of** Ambassador Phillip V. Sanchez Charter	Contact name and Title: District: Juan Sandoval, Superintendent School: Skip Hansen, Sr. Vice President	Contact person's e-mail: jsandoval@raisincity.k12.ca.us shansen@learn4life.org
Address: (City) (State) (ZIP) District: 6425 W. Bowles, P.O. Box 69, Raisin City, CA 93652 School: 5659 East Kings Canyon Road, Suite 101, Fresno, CA 93727		Phone (and extension, if necessary): District: (559) 233-0128 School: (559) 255-9017 School Fax: (559) 255-9037
Period of request: (month/day/year) From: 7/1/2011 To: 6/30/13	Local board approval date: (Required) June 8, 2011	Date of public hearing: (Required) May 18, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or (*CCR*)
11960(a)

Topic of the waiver: **Multi Track School**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _No__ and date of SBE Approval_____

3. Collective bargaining unit information. Does the district have any employee bargaining units? _**X**_ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(Please specify)* Notice Posted at District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
District Advisory Council

Date the committee/council reviewed the waiver request: May 18, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (11-30-10)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
35256. School Accountability Report Card
Apply for waiver under CCR-Title 5 Section 11960 (a), to allow the Charter school attendance to be calculated as a regular multi track school.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.
This Waiver is being requested because this Charter School proposes to operate a multi-track year round education calendar, with no more than 5 tracks. As a result, the number of days this school is actually teaching per year is 240. However, each track of students will be offered school for a minimum of 175 days of instruction and no track will have fewer than 55% of its school days prior to April 15th. Therefore the waiver is requested to separately calculate ADA in each track (rather than the school as a whole) by method set forth in CCR Title 5 Section 11960 (a) and then total the resulting figures. This is the same method required for non-charter schools that operate on a multi-track year round calendar. The reason for operating a multi-track calendar is our school is an ASAM school and our student population is comprised of mainly at-risk students who will benefit for a year round calendar which helps them catch up academically to ensure they get back on the road to earning a high school diploma.

8. Demographic Information:

Ambassador Phillip V. Sanchez Public Charter has a student population of 240 and is located in the city of Fresno in Fresno County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 11-30-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	1	2	0	5	9	2

Local educational agency: Adelanto School District **on behalf of** Alta Vista Public Charter, Inc.	Contact name and Title: District: Darin Brawley, Superintendent School: Gloria Fortine, Sr. VP Education	Contact person's e-mail address: darin_brawley@aesd.net gfortine@learn4life.org
Address: (City) (State) (ZIP) District: 11824 Air Expressway, Adelanto, CA 92301 School: 11988 Hesperia Road, Suite B, Hesperia, CA 92345		Phone (and extension, if necessary): District: 760-246-8691 School: (760) 947-0006 School Fax: (760) 949-5876
Period of request: (month/day/year) From: 7/1/2011 To: 6/30/13	Local board approval date: (Required) May 17, 2011	Date of public hearing: (Required) May 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or (*CCR*)
11960(a)

Topic of the waiver: **Multi Track School**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _No__ and date of SBE Approval_____

3. Collective bargaining unit information. Does the district have any employee bargaining units? _**X**_ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(Please specify)* Notice Posted at District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
District Advisory Council

Date the committee/council reviewed the waiver request: May 11, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (11-30-10)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
35256. School Accountability Report Card
Apply for waiver under CCR-Title 5 Section 11960 (a), to allow the Charter school attendance to be calculated as a regular multi track school.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.
This Waiver is being requested because this Charter School proposes to operate a multi-track year round education calendar, with no more than 5 tracks. As a result, the number of days this school is actually teaching per year is 240. However, each track of students will be offered school for a minimum of 175 days of instruction and no track will have fewer than 55% of its school days prior to April 15th. Therefore the waiver is requested to separately calculate ADA in each track (rather than the school as a whole) by method set forth in CCR Title 5 Section 11960 (a) and then total the resulting figures. This is the same method required for non-charter schools that operate on a multi-track year round calendar. The reason for operating a multi-track calendar is our school is an ASAM school and our student population is comprised of mainly at-risk students who will benefit for a year round calendar which helps them catch up academically to ensure they get back on the road to earning a high school diploma.

8. Demographic Information:

Alta Vista Public Charter, Inc. has a student population of 548 and is located in the city of Hesperia in San Bernardino County.

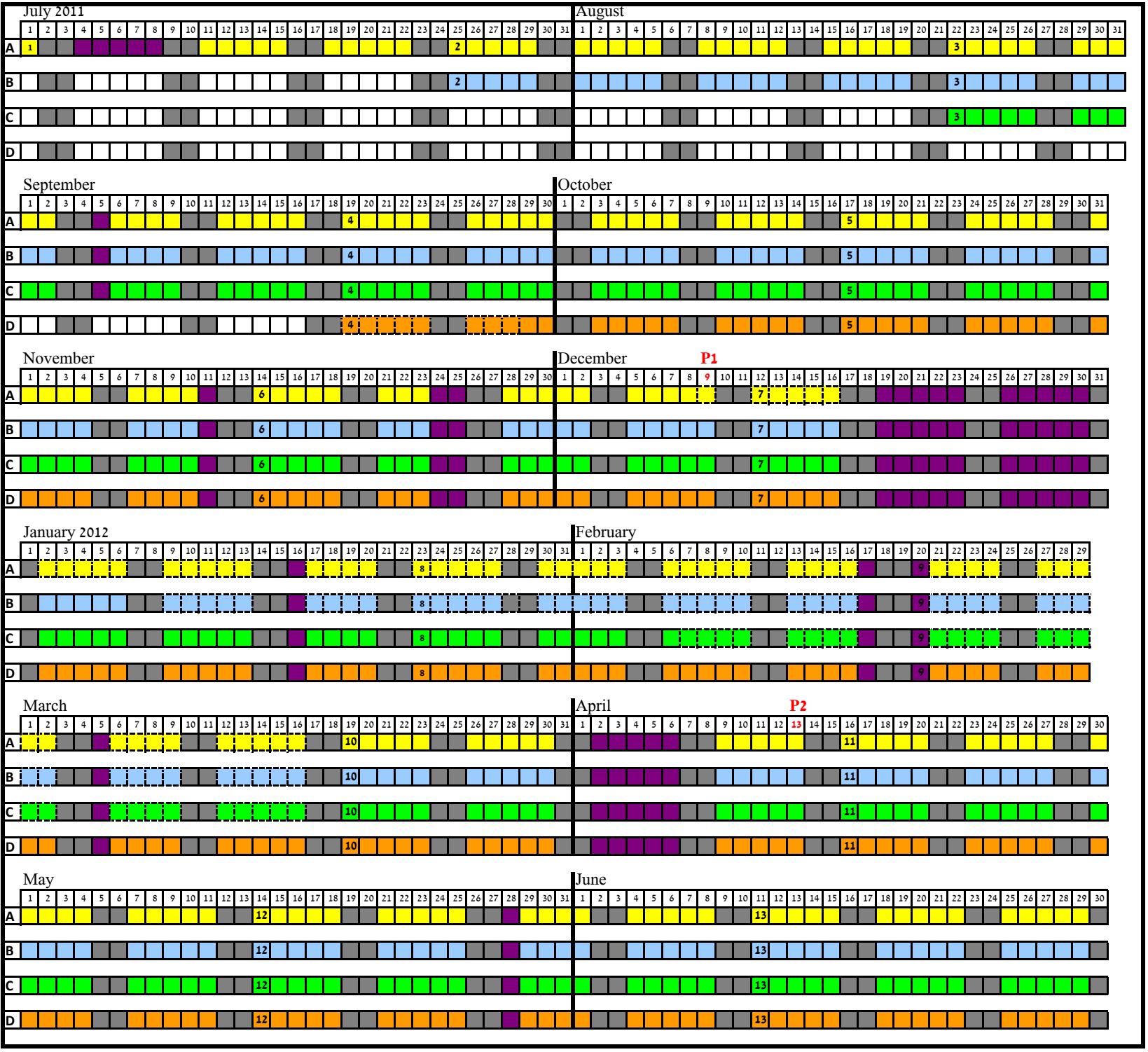
Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

2011-2012 Calendar



2011-2012
School Year

175 School Days

1 School Month	
Weekend	
Holiday	
Track A	175
Track A Supplemental	58
Track B	175
Track B Supplemental	47
Track C	175
Track C Supplemental	27
Track D	175
Track D Supplemental	8

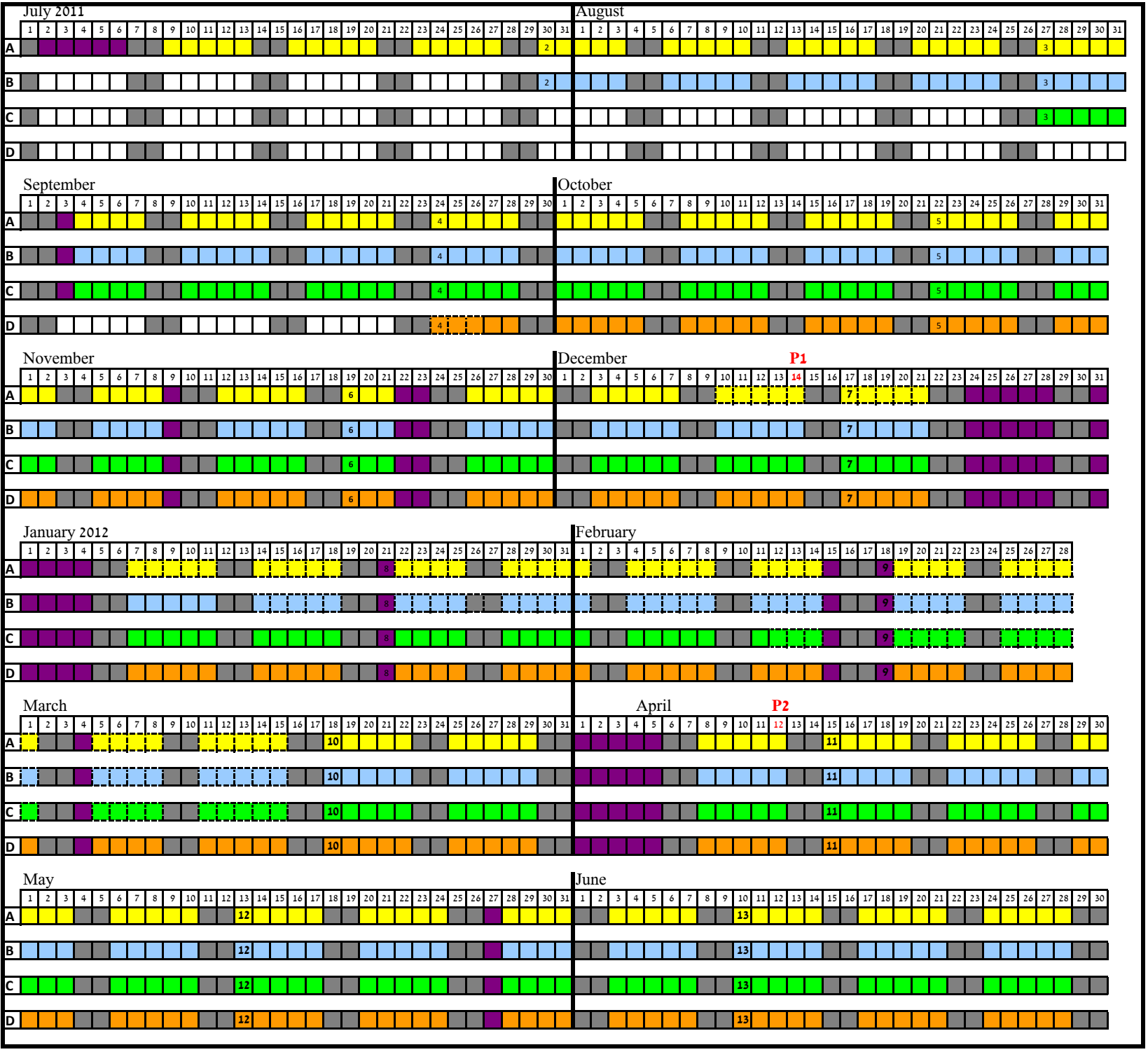
P1, P2, PA Days,
Not including Supplemental

Track	P1	P2	PA
A	106	121	175
B	96	121	175
C	76	121	175
D	49	121	175

REV 6-20-11 RVB

Created by California Department of Education, Revised on 11-28-2011

2012-2013 Calendar



2012-2013
School Year

175 School Days

School Month	
Weekend	
Holiday	
Track A	175
Track A Supplemental	57
Track B	175
Track B Supplemental	42
Track C	175
Track C Supplemental	22
Track D	175
Track D Supplemental	3

P1, P2, PA Days,
Not including Supplemental

Track	P1	P2	PA
A	106	121	175
B	96	121	175
C	76	121	175
D	49	121	175

REV 6-6-11 KVB

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	1	1	0	0	1	7

Local educational agency: Alameda County Office of Education for Aspire California College Prep & Aspire College Academy jb 9/1/2011	Contact name and Title: Teresa Kapellas, Director, Charter Schools Division	Contact person's e-mail address: tkapellas@acoe.org
Address: (City) (State) (ZIP) 313 West Winton Avenue, Hayward, CA 94544		Phone (and extension, if necessary): 510-670-4272 Fax Number: 510-670-3272
Period of request: (month/day/year) From: 7/1/11 To: 6/30/13	Local board approval date: (Required) August 23, 2011	Date of public hearing: (Required) August 23, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 33050 Circle One: ***EC***

   Topic of the waiver: *Countywide charter with two schools operating on two different school calendars*

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? **X** No __ Yes If yes, please complete required information below:
   Bargaining unit(s) consulted on date(s): **n/a**
   Name of bargaining unit and representative(s) consulted:
   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)
   Comments (if appropriate): The charter school does not have a collective bargaining unit.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* Published on ACOE's Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Aspire Board of Directors

   Date the committee/council reviewed the waiver request: August 25, 2011

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California Code of Regulation Title 5 Section 11960
"Regular average daily attendance" shall be computed
by dividing a charter school's total number of pupil-days of attendance by the number of calendar days
on which school was actually taught in the charter school. For purposes of determining a charter
school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance
in a calendar day.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Aspire Public Schools has a countywide charter in Alameda, and two of our schools fall under that countywide charter, Aspire California College Prep (currently serving grades 9-12) and Aspire College Academy (currently serving grades K-6). Both schools share a CDS code and charter number and must report their attendance to the state together at P1, P2, and PAnnual.

Because the two schools are located on separate campuses, have a different administrative team, and serve different grade levels, they each have their own school calendar. They do not operate on exactly the same days of the year.

Therefore, we are applying to the state for approval of a multi-track waiver. This will allow us to keep separate attendance records for each of the campuses based on the number of days that each campus operates, and report our average daily attendance to the state for both campuses under the same CDS code.

8. Demographic Information:
Aspire California College Prep has a student population of 459 students across two campuses and is located in urban areas (Oakland, Berkeley) in Alameda County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Alameda County Superintendent of Schools	Date: August 25, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Aspire California College Preparatory Academy

School Calendar for 2011-2012

July

S..	M..	T..	W.	T..	F..	S..
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

26	First Day Teacher Work Year	
26-27	Staff Retreat/Prep	✖
28-29	Staff Work Day	

Instructional Days 0

August

S..	M..	T..	W.	T..	F..	S..
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

1-5	Staff Work Day	✖
8	First Day of School	
20	Saturday School	

Instructional Days 18

September

S..	M..	T..	W.	T..	F..	S..
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

5	Labor Day	
16	Staff Work Day	
30	Term End of Q1	

Instructional Days 20

October

S..	M..	T..	W.	T..	F..	S..
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

3-7	Fall Break	
12	Testing PSAT(10th GR)	

Instructional Days 16

November

S..	M..	T..	W.	T..	F..	S..
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

1-2	Testing CAHSEE(11th &12th)	
11	Veteran's Day	
21-25	Thanksgiving Holiday	

Instructional Days 16

December

S..	M..	T..	W.	T..	F..	S..
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

12/19-1/6	Winter Break	
16	Term End of Q2/S1	

Instructional Days 12

January

S..	M..	T..	W.	T..	F..	S..
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

9	Staff Work Day	
16	MLK Jr. Day	

Instructional Days 15

February

S..	M..	T..	W.	T..	F..	S..
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

20	President's Day	

Instructional Days 20

March

S..	M..	T..	W.	T..	F..	S..
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

3/26-4/6	Spring Break	
9	Term End of Q3	
13-14	Testing CAHSEE (10th-12th GR)	

Instructional Days 17

April

S..	M..	T..	W.	T..	F..	S..
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Instructional Days 16

May

S..	M..	T..	W.	T..	F..	S..
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

7-11	Testing CST	
28	Memorial Day	

Instructional Days 22

June

S..	M..	T..	W.	T..	F..	S..
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

12	Last Day of School	

Instructional Days 8

In Session	Saturday School	Draft ✖	Instructional Days 180	Teacher work days 192
Minimum Day	Staff Work Day		Saturday School 1	
Testing	Not In Session		Non-student teacher work days 11	

AAV of SBE Item W-1 Attachment 7

This page is the Accessible Alternative Version (AAV) of Item W-1 Attachment 7 from the November 9-10, 2011 California State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 1 Attachment 4 from the November 9-10, 2011 State Board of Education (SBE) meeting. The scanned Item W-1 Attachment 7 (PDF; 854KB; 1p.) version is considered to be the official version of the document.

Aspire California College Preparatory Academy School Calendar for 2011-2012

Month of July 2011

- July 1st to 25th Not in Session
- July 26th First Day Teacher Work year
- July 26th to 27th Staff Retreat/Prep (Draft)
- July 28th to 29th Staff Work Day
- July 2011 Instructional Days is 0

Month of August 2011

- August 1st to 5th Staff Work Day (Draft)
- August 8th First Day of School
- August 8th to 11th In Session
- August 12th Minimum Day
- August 15th to 18th In Session
- August 19th Minimum Day
- August 20th Saturday School
- August 22nd to 25th In Session
- August 26th Minimum Day
- August 29th To 31st In Session
- August 2011 Instructional Days is 18

Month of September 2011

- September 1st In Session
- September 2nd Minimum Day
- September 5th Labor Day
- September 6th to 8th In Session
- September 9th Minimum Day

- September 12th to 15th In Session
- September 16th Staff Work Day
- September 19th to 22nd In Session
- September 23rd Minimum Day
- September 26th to 29th In Session
- September 30th Minimum Day
- September 30th Term End of Quarter 1
- September 2011 Instructional Day is 20

Month of October 2011

- October 3rd to 7th Fall Break
- October 10th to 13th In Session
- October 12th Testing PSAT (10th Grade)
- October 14th Minimum Day
- October 17th to 19th Minimum Days
- October 20th In Session
- October 21st Minimum Day
- October 24th to 27th In Session
- October 28th Minimum Day
- October 2011 Instructional Days is 16

Month of November 2011

- November 1st to 2nd Testing CAHSEE (11th and 12th Grade)
- November 1st to 3rd In Session
- November 4th Minimum Day
- November 7th to 10th In Session
- November 11th Veteran's Day
- November 14th to 17th In Session
- November 18th Minimum Day
- November 21st to 25th Thanksgiving Holiday
- November 28th to 30th In Session
- November 2011 Instructional Days is 16

Month of December 2011

- December 1st In Session
- December 2nd Minimum Day
- December 5th to 8th In Session
- December 9th Minimum Day
- December 12th to 16th In Session
- December 16th Term end of Quarter 2/Semester 1
- December 19th to January 6th Winter Break
- December 2011 Instructional Days is 12

Month of January 2012

- January 9th Staff Work Day
- January 10th to 12th In Session
- January 13th Minimum Day
- January 16th MLK Jr. Holiday
- January 17th In Session
- January 18th to 20th Minimum Days
- January 23rd to 26th In Session
- January 27th Minimum Day
- Jauary 30th to 31st In Session
- January 2012 Instructional Days is 15

Month of February 2012

- February 1st In Session
- February 2nd Minimum Day
- February 6th to 9th In Session
- February 10th Minimum Day
- February 13th to 17th In Session
- February 20th Presidents Day
- February 21st to 23rd In Session
- February 24th Minimum Day
- February 27th to 29th In Session
- February 2012 Instructional Days is 20

Month of March 2012

- March 1st In Session
- March 2nd Minimum Day
- March 5th to 9th In Session
- March 9th Term End of Quarter 3
- March 12th to 15th In Session
- March 13th to 14th Testing CAHSEE (10th Grade – 12th Grade)
- March 16th Minimum Day
- March 19th to 22nd In Session
- March 23rd Minimum Day
- March 26th to April 6th Spring Break
- March 2012 Instructional Days is 17

Month of April 2012

- April 9th to 12th In Session
- April 13th Minimum Day
- April 16th to 19th In Session

th

April 20 Minimum Day
- April 23rd to 26th In Session
- April 27th Minimum Day
- April 30th In Session
- April 2012 Instructional Days is 16

Month of May 2012

- May 1st to 3rd In Session
- May 4th Minimum Day
- May 7th to 11th In Session
- May 7th to 11th Testing CST
- May 14th to 17th In Session
- May 18th Minimum Day
- May 21st to 24th In Session
- May 25th Minimum Day
- May 28th Memorial Day
- May 29th to 31st In Session
- May 2012 Instructional Days is 22

Month of June 2012

- June 1st to 12th Minimum Days
- June 12th Last Day of School
- June 2012 Instructional Days is 8

192 Total Teacher Work Days

- 180 Total Instructional Days
- 1 Day of Saturday School
- 11 Non-student Teacher Work Days

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

Last Reviewed: Friday, October 28, 2011

2011-2012 - FAMILY CALENDAR

July

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

July

Days of instruction: 0

January 2012

S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

January

2-6: Winter Break - *No School*
9-11: Student Led Conf. (11:58 Dismiss
16: MLK Jr. Holiday - *No School*

Days of instruction: 16

August

S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August

26: Family Orientation
29: **First Day of School**

Days of instruction: 3

February

S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

February

4: Saturday School
17-20: President's Day - *No School*

Days of instruction: 19

September

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

September

5: Labor Day - *No School*
10: Saturday School & Back to School
16: *No School (Teacher Development)*
19-23 Fall Benchmark- 100% attendance
30: *End of 1st Quarter*

Days of instruction: 20

March

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

March

5-9 Spring Benchmark 100% Attendanc
23: *End of 3rd Quarter*
23: Report Cards Mailed

Days of instruction: 22

October

S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

October

3-7: Fall Break - *No School*
7: Report Card Mailed
10-12: Student Led Conf. (11:58 Dismissal
10-12: 100% Attendance required

Days of instruction: 16

April

S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

April

2-6: Spring Break - *No School*
9-11: Student Led Conf. (11:58 Dismiss
21: Saturday School

Days of instruction: 16

November

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

November

5: Saturday School
21-25: Thanksgiving - *No School*

Days of instruction: 17

May

S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

May

7 -11: CST Testing 100% Attendance
28: Memorial Day - *No School*
29-6/1: Final Benchmark

Days of instruction: 22

December

S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

December

5-9: Winter Benchmark 100% Attendance
15: *End of 2nd Quarter*
17-30: Winter Break - *No School*
23: Report Cards Mailed

Days of instruction: 12

June

S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

June

8: Report Card Mailed
11-13 Student Led Conf. (11:58 Dismis
15: 5th Grade Promotion Ceremony
15: *End of 4th Quarter*

Days of instruction: 11

Legend: **School Hours:**
M & Th: 8:00 am - 3:30 pm
F: 8:00 am - 11:58 am

Important Days:
Saturday School
Report Cards Mailed
Student-Led Conferences

School Days	174
Family School Days	4
Total School Days	**178**

ITEM #W-2

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Alpaugh Unified School District** for a renewal to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from 25:1 to a 27.5:1 pupil-to-teacher ratio at **Central California Connections Academy Charter School**. Waiver Number: 19-6-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval of this waiver because the Central California Connections Academy Charter School met their Academic Performance Index (API) growth target for 2010–11.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This waiver was presented to the State Board of Education at its May 12, 2011 meeting was approved for one year only.

In April 2001, the California State Board of Education (SBE) adopted Waiver Policy #01-03, Independent Study: Average Daily Attendance (ADA)-to-Teacher Ratio, available at http://www.cde.ca.gov/re/lr/wr/documents/independentstudy.doc.

Although Central California Connections Academy is a charter school, it meets the same criteria as the other local educational agencies covered by Waiver Policy #01-03.

SUMMARY OF KEY ISSUES

EC Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), establish minimum requirements for ADA-to-teacher ratios in independent study that apply to non-classroom based charter schools. In essence, these sections require that the ratio meet the following criteria:

1. The ratio cannot exceed the equivalent ratio of ADA-to-full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest ADA of pupils in that county.

SUMMARY OF KEY ISSUES (Cont.)

2. In a charter school, the ratio may be calculated by using a fixed ADA-to-certificated-employee ratio of 25:1, or by a ratio of less than 25 pupils per certificated employee.

Central California Connections Academy Charter School is requesting to increase the ADA-to-teacher ratio from 25:1 to 27.5:1. This constitutes a 10 percent increase. Central California Connections Academy Charter School requests this increase to alleviate the impact of reduced revenue that the charter received due to the statewide budget crisis, and that additional staffing costs will have a detrimental effect on school instructional operations and the ability to provide necessary services.

Approval of this request will allow Central California Connections Academy Charter School to protect its instructional programs and enrichment offerings. Central California Connections Academy Charter School has made assurances that it will expend all revenues generated by students in independent study on services for the students.

In the 2010–11 school year, Central California Connections Academy Charter School had a 2011 Growth API score of 776 constituting a growth of 58 points, thus meeting its API growth target of 5 points. Central California Connections Academy Charter School does not have significant subgroups.

The Department recommends approval of this waiver. Central California Connections Academy Charter School did meet its API growth target for 2010–11.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Central California Connections Academy Charter School has a student population of 171 and is located in a rural region in Tulare County. The school is authorized by the Alpaugh Unified School District.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 29, 2012 (two years less one day)

Local board approval date(s): June 9, 2011

Public hearing held on date(s): June 9, 2011

Bargaining unit(s) consulted on date(s): Central California Connections Academy Charter School does not have a bargaining unit.

Name of bargaining unit/representative(s) consulted: Central California Connections Academy Charter School does not have a bargaining unit.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose

Comments (if appropriate): Central California Connections Academy Charter School does not have a bargaining unit.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ posting at the United States Post Office

Advisory committee(s) consulted: Board of Directors – Central California Connections Academy

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: May 24, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

California State Board of Education Policy	POLICY #
	01-03
WAIVER GUIDELINES Independent Study: Average Daily Attendance (ADA)-to-Teacher Ratio	DATE April 2001

REFERENCES

Education Code (EC) Section 33050 et seq. (general waiver authority)
EC Section 51745.6 (Ratio of independent study ADA-to-certificated employees responsible for independent study)

HISTORICAL NOTES
None.

EC Section 51745.6:

(a) The ratio of average daily attendance for independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other education programs operated by the school district. The ratio of average daily attendance for independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county. The computation of those ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent of Public Instruction.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts, and Section 2558, for county offices of education. Nothing in this section shall prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratio described in subdivision (a), except that those additional units shall not be funded pursuant to Section 42238.5 or Section 2558.

(c) The calculations performed for purposes of this section shall not include either of the following:

(1) The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.

(2) The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24.

(d) The pupil-teacher ratio described in subdivision (a) in a unified school district participating in the class size reduction program pursuant to Chapter 6.10 (commencing

with Section 52120) may, at the school district's option, be calculated separately for kindergarten and grades 1 to 6, inclusive, and for grades 7 to 12, inclusive.

Background:
The purpose of the ADA-to-teacher ratio requirement in state law is to ensure the students served through independent study receive access to instruction and support from appropriately certificated staff that is reasonably comparable to other students in the local education agency (LEA) who are served in regular classroom programs. The requirement was enacted specifically to stop perceived abuses where LEAs offered independent study with very high ADA-to-teacher ratios and, as a result, generated revenues to support other educational programs within those agencies.

Changes in statute which offered incentives to lower class sizes at the elementary and high school level have resulted in a commensurate lowering of the ADA-to-teacher ratio for independent study, even though independent study is not allowed to participate in the funding incentives for these programs. In addition, students in independent study may actually have a greater need for services in some areas, such as instructional materials, computer labs, and counseling services, than do students served in a classroom setting.

Evaluation Guidelines:
The purpose of the waiver request of the entire *EC* Section 51745.6 may be to provide a quality educational program which is “reasonably comparable” to that provided to students within the same LEA who attend regular classrooms, and may also be considered appropriate if the purpose of the higher ADA-to-teacher ratio is to redirect resources to pay, for other services for the direct benefit of students in independent study, such as intensive counseling services provided by appropriately credentialed staff.

In order to evaluate any such waiver request, the State Board of Education (SBE) asks that those LEAs applying for such a waiver provide the following documentation. The SBE also asks that California Department of Education (CDE) professional staff use this documentation in reviewing and making recommendations about the request. The waiver request should include all of the following:

(1) Verification that all other requirements of the independent study option in the LEA are in current statutory compliance, in both operation and documentation.

(2) Verification of the LEA’s current ADA-to-teacher ratio, as calculated under the current formula in statute (*EC* Section 51745.6).

(3) The requested new maximum ADA-to-teacher ratio for the LEA’s independent study program, including a description of the agency’s independent study program and the rationale for the requested ratio. The rationale should explain

how the proposed change would improve the quality of education offered to independent study students (e.g. what new or increased services would be provided with the additional revenue claimable through the waiver).

In addition, the waiver request must provide assurances that the LEA will meet the following terms as a condition of approval of the waiver:

(1) The waiver request is consistent with the general purpose of the law as described above.

(2) The request for a new maximum ADA-to-teacher ratio for the independent study is not greater than 10% above the ratio that would be applicable absent the waiver, and this agreed new maximum ratio will be maintained in all future years of the waiver.

(3) The district will expend all revenues generated by students in independent study on services for those students, recognizing the need to allow for reasonable indirect cost charges.

(4) The LEA will provide an annual report of expenditures and assurances to the CDE, using the standard report form supplied, the Local Education Agency Report to California Department of Education: Use of Apportionment Funds Generated by Students in Independent Study.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _ __
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	8	0	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Alpaugh Unified School District on behalf of Central California Connections Academy, a charter school authorized by AUSD	**Frances Sassin** Business Manager, California Connections Academy schools and **Robert Hudson**, Superintendent, Alpaugh Unified School District	fsassin@sbcglobal.net and robh@alpaugh.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
PO Box 9 5313 Road 39	Alpaugh	CA	93201	(559) 713-1324 X306
AND 4020 S Demaree, Suite B	Visalia	CA	93277	Fax Number: (559) 713-1330

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/20~~11~~ 2010 To: 6/29/~~2013~~ 2012	June 9, 2011	June 9, 2011

Jb 9/22/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR: BOTH*

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of 11963.4(a)(3),
Topic of the waiver: Pupil to Teacher Ratio for Independent Study Charter Schools

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 100-2-2011 and date of SBE Approval: May 12, 2011
Renewals of waivers must be submitted two months before the active waiver expires.
NOTE: Initial waiver for 2010-12 was submitted in March and was approved by SBE just in May of 2011, but it was only approved for one year, and the CDE recommendation was to submit for a renewal immediately to allow the waiver to cover the upcoming fiscal years.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below: See comment below
Bargaining unit(s) consulted on date(s):
Name of bargaining unit and representative(s) consulted:
The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)
Comments (if appropriate): Independent Charter School does not have a bargaining unit

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* Post Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
The Board of Directors of Central California Connections Academy approved the waiver request at a board meeting after holding a public hearing.
Date the committee/council reviewed the waiver request: May 24, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704 and portions of 11963.4(a)(3) as follows:

…and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of ~~25:1~~ 27.5:1

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Central California Connections Academy (CenCA) provides a high quality virtual education to students in Central California. Teachers work primarily from the school office but serve students in a large geographic area using a variety of technological tools. An increase in the pupil to teacher ratio will allow cost savings while maximizing the resources that a virtual school can offer to students. Given the budget constraints caused by the current financial crisis, CenCA proposes to implement needed budget cuts by fully utilizing such efficiencies offered by on-line education. Despite fiscal challenges, if any additional revenue results from the increased ratio, it will be directed back to services which support student learning in the virtual environment, such as enhanced curricular offerings, increased test preparation services, increased remediation and intervention services for struggling students, and/or increased access to technology tools.

8. Demographic Information:
The charter school has a student population of 171 (as of October, 2010) and is located in and sponsored by Alpaugh Unified School District, a rural district in Tulare County. However, as a virtual school, the charter enrolls students from all areas of Tulare County and contiguous counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent, Alpaugh Unified School District	Date: 06-09-11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ITEM #W-3

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by five local educational agencies to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow nine educational interpreters to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum qualifications.	☒ **Action**
Waiver Numbers: Lemoore Union High School District 9-8-2011 Lindsay Unified School District 18-7-2011 Lindsay Unified School District 23-7-2011 El Dorado County Office of Education 24-8-2011 El Dorado County Office of Education 25-8-2011 El Dorado County Office of Education 26-8-2011 Dinuba Unified School District 10-8-2011 Dinuba Unified School District 11-8-201 Clovis Unified School District 15-7-2011	☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of the waiver requests for these nine interpreters, with the individual conditions noted in Attachments two and three.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

Since 2007, 176 of these waivers have been approved by the SBE, and 21 have been denied.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, the *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

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

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in the California *Education Code (EC)* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

In November 2009, the SBE approved a policy regarding educational interpreter waiver requests. That policy is on the CDE website at http://www.cde.ca.gov/re/lr/wr/hottopics.asp#Educational.

Authority for Waiver: California *Education Code* 33050

Local board approval date(s): See each individual waiver

Public hearing held on date(s): See each individual waiver

Advisory committee(s) consulted, Dates and objections: See each individual waiver

Public hearing advertised by (choose one or more): See each individual waiver

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: An explanation of the scoring on each of the approved interpreter assessments (3 pages)

Attachment 2: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (3 pages)

Attachment 3: List of Waiver Conditions (2 pages)

Attachment 4: Lemoore Union High School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Lindsay Unified School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 6: Lindsay Unified School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 7: El Dorado County Office of Education General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 8: El Dorado County Office of Education General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 9: El Dorado County Office of Education General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 10: Dinuba Elementary School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

ATTACHMENT(S)

Attachment 11: Dinuba Elementary School District General Waiver Request (3 pages)
(Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 12: Clovis Unified School District General Waiver Request (4 pages)
(Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

California State Board of Education Policy

POLICY #
09-02
DATE
November 2009

WAIVER GUIDELINES

State Board of Education (SBE) Waiver Policy for Educational Interpreters Not Meeting Regulatory Standards.

REFERENCES

To use the General Waiver Authority, *Education Code* (*EC)* Section 33050 et seq. to waive Title 5, California Code of Regulations, Section 3051.16 (b)(3).

HISTORICAL NOTES

Regulatory Provisions:
California Code of Regulations, Title 5 (5 *CCR*) Section 3051.16(b)(3), requires the following:

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

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Background:

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. The purpose of establishing an implementation date of 2007 for the regulatory requirement was to provide local educational agencies and individual educational interpreters with five years in order to prepare for and meet the standard. In 2008, the SBE adopted revised regulations that allowed interpreters until July 1, 2008, to achieve a score of 3.0 on named assessments. As of July 1, 2009, regulations require them to achieve a score of 4.0

on those same assessments. Since 2007, the SBE has heard and approved all waivers for interpreters who did not meet the regulatory criteria for working in California schools.

However, now that the July 1, 2009, deadline has passed, the California Department of Education (CDE) staff feels that in most cases local educational agencies have had enough time to try to bring their interpreters up to standards, and that interpreters who have never taken an assessment of their skills, or who have very low scores, should not continue to work with our deaf and hard of hearing students.

Waiver Criteria:
Basic Review Criteria for Educational Interpreter waivers:

1. Local educational agencies (LEAs) must provide, for each educational interpreter, current assessment scores on the Education Sign Skills Evaluation-Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI). Current means that the assessment must have been administered within the past school year. If current assessment scores are unavailable, LEAs must provide results from the pre-hire screening offered by Boys Town National Research Hospital.

2. All other documents for each interpreter:

    - Name, date and score of most recent interpreter assessment
    - Name, dates and scores of previous assessments
    - Date of hire
    - Efforts made by the LEA on behalf of the employee, to achieve this certification since August 28, 2002
    - Record of previous training/mentoring
    - Remediation plan, including training/mentoring by RID certified interpreter signed by the interpreter and the union representative

3. Waivers not meeting the above criteria will be held (not forwarded to SBE) until the information is provided, making the waiver “complete and documented.”

Consent Calendar Criteria:

1. Each LEA (district or county office of education) must include a copy of district's current educational interpreter job description, which reflects the qualification standards of 5 CCR 3051.16, and show proof that they have recruitment and hiring policies that support these standards.

2. This must be the first year that an interpreter has requested a waiver, and the first year that the interpreter has been employed by that LEA. All repeat waivers will go on the SBE Action Calendar for discussion.

3. Each interpreter shall have achieved a composite score of 3.0 (intermediate) or above on the EIPA or the NAD/ACCI assessment, or a score of 3.0 (intermediate) or above on both the expressive and the receptive portions of the ESSE.

   Level 3: Intermediate

   Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.

   An interpreter at this level needs continued supervision and should be required to participate in continuing education in interpreting.

Educational Interpreter Waiver Requests

An explanation of the scoring on each of the above named assessments is as follows:

- The EIPA is administered by Boys Town National Research Hospital in Omaha, Nebraska. An interpreter who takes the EIPA receives a single composite score from 1-5.

- The ESSE is administered by the Signing Exact English (SEE) Center in Los Alamitos, California. An interpreter who takes the ESSE receives a score from 1-5 in expressive interpreting skills and a separate score from 1-5 in receptive skills. Expressive interpreting refers to the ability to listen to a spoken English message and interpret it in signed language. Receptive skill refers to the ability to understand a signed message, and translate it to spoken or written English. An interpreter who takes the ESSE must receive a score of 4 or above on both portions of the evaluation.

- The NAD/ACCI assessment was administered by the California Coalition of Agencies Serving the Deaf and Hard of Hearing. An interpreter who took the NAD/ACCI assessment received a single composite score from 1-5. Administration of the NAD/ACCI assessment was discontinued in 2004.

Following are descriptions of the levels of educational interpreting provided by Boys Town National Research Hospital, which administers the EIPA:

Level 1: Beginner

Demonstrates very limited sign vocabulary with frequent errors in production. At times, production may be incomprehensible. Grammatical structure tends to be nonexistent. Individual is only able to communicate very simple ideas and demonstrates great difficulty comprehending signed communication. Sign production lacks prosody and use of space for the vast majority of the interpreted message.

An individual at this level is not recommended for classroom interpreting

Level 2: Advanced Beginner

Demonstrates only basic sign vocabulary and these limitations interfere with communication. Lack of fluency and sign production errors are typical and often interfere with communication. The interpreter often hesitates in signing, as if searching for vocabulary. Frequent errors in grammar are apparent, although basic signed sentences appear intact. More complex grammatical structures are typically difficult. Individual is able to read signs at the word level and simple sentence level but complete

or complex sentences often require repetitions and repairs. Some use of prosody and space, but use is inconsistent and often incorrect.

An individual at this level is not recommended for classroom interpreting.

Level 3: Intermediate

Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.

An interpreter at this level needs continued supervision and should be required to participate in continuing education in interpreting.

Level 4: Advanced Intermediate

Demonstrates broad use of vocabulary with sign production that is generally correct. Demonstrates good strategies for conveying information when a specific sign is not in her/his vocabulary. Grammatical constructions are generally clear and consistent, but complex information may still pose occasional problems. Prosody is good, with appropriate facial expression most of the time. May still have difficulty with the use of facial expression in complex sentences and adverbial non-manual markers. Fluency may deteriorate when rate or complexity of communication increases. Uses space consistently most of the time, but complex constructions or extended use of discourse cohesion may still pose problems. Comprehension of most signed messages at a normal rate is good but translation may lack some complexity of the original message.

An individual at this level would be able to convey much of the classroom content but may have difficulty with complex topics or rapid turn taking.

Level 5: Advanced

Demonstrates broad and fluent use of vocabulary, with a broad range of strategies for communicating new words and concepts. Sign production errors are minimal and never interfere with comprehension. Prosody is correct for grammatical, non-manual markers, and affective purposes. Complex grammatical constructions are typically not a problem. Comprehension of sign messages is very good, communicating all details of the original message.

An individual at this level is capable of clearly and accurately conveying the majority of interactions within the classroom.

Another way of clarifying the meaning of the scores is as follows:

Score	Rate of accuracy of interpretation
0	0%
1	20%
2	40%
3	60%
4	80%
5	100%

List of Waiver Numbers, Districts, and Information Regarding Each Waiver

Waiver Number	LEA	Interpreter	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire	New or Renewal	Period of Request	Bargaining Unit Position	Fiscal Status
9-8-2011	Lemoore UHSD	Gayle Tackett	ESSE April 2011 Expressive 4.0 (80%) Receptive 3.7 (74%)	ESSE 2004 2.0/2.7 ESSE 2006 4.0/2.5 ESSE 2009 4.0/3.5	2008	New. Had waivers 2008/2009, but moved out of area. Has moved back in.	August 1, 2011, to June 30, 2012	Federation of Classified Employees, Local 4870 Support	No Statewide Impact
18-7-2011	Lindsay USD	Brianna Terrill	ESSE November 2010 Expressive 3.0 (60%) Receptive 4.0 (80%)	ESSE 2008 2.0/2.5 ESSE 2009 3.0/3.5 ESSE January 2010 3.0/4.0	12/14/04	New. Had waiver in 2009. Was employed in 2010, but LEA did not request waiver.	August 1, 2011, to June 30, 2012	California School Employees Association Support	No Statewide Impact
23-7-2011	Lindsay USD	Sara Palmitessa	EIPA Pre-Hire Screen June 2011 “OK to Hire”	N/A	8/17/10	New	August 1, 2011, to June 30, 2012	California School Employees Association Support	No Statewide Impact

Waiver Number	LEA	Interpreter	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire	New or Renewal	Period of Request	Bargaining Unit Position	Fiscal Status
24-8-2011	El Dorado COE	Mary Coburn	EIPA November 2010 3.4	EIPA June 2006 2.9 EIPA May 2008 3.2	9/7/04	New. Had waiver in 2009. Was employed in 2010, but LEA did not request waiver.	August 1, 2011, to June 30, 2012	California School Employees Association Chapter 488 Support	No Statewide Impact
25-8-2011	El Dorado COE	Susie Parker	EIPA December 2010 3.6	EIPA November 2008 3.2	1/12/09	New. Had waiver in 2009. Was employed in 2010, but LEA did not request waiver.	August 1, 2011, to June 30, 2012	California School Employees Association Chapter 488 Support	No Statewide Impact
26-8-2011	El Dorado COE	Michaela Radney	EIPA November 2010 3.6	EIPA July 2007 3.5	5/12/06	New. Had waiver in 2009. Was employed in 2010, but LEA did not request waiver.	August 1, 2011, to June 30, 2012	California School Employees Association Chapter 488 Support	No Statewide Impact

Waiver Number	LEA	Interpreter	Name, Date, and Score of Most Recent Evaluation	Name, Dates, and Scores of Previous Evaluations	Date of Hire	New or Renewal	Period of Request	Bargaining Unit Position	Fiscal Status
10-8-2011	Dinuba ESD	Rosa Velasco	ESSE April 2011 Expressive 4.0 (80%) Receptive 3.2 (64%)	ESSE April 2009 4.0/3.2	8/22/05	Renewal. Had waivers 2009 and 2010.	July 2, 2011, to June 30, 2012	California School Employees Association Support	No Statewide Impact
11-8-2011	Dinuba ESD	Eva Martinez	ESSE April 2011 Expressive 4.0 (80%) Receptive 3.4 (68%)	ESSE April 2009 4.0/3.2	8/14/08	Renewal. Had waivers 2009 and 2010.	July 2, 2011, to June 30, 2012	California School Employees Association Support	No Statewide Impact
15-7-2011	Clovis USD	Roland Hendrix	EIPA October 2010 3.2	EIPA September 2009 3.0	12/1/09	Renewal	August 23, 2011, to June 30, 2012	Clovis USD interpreters are not represented by a bargaining unit.	No Statewide Impact

November 2011 Educational Interpreter Conditions

Waiver Number	LEA	Interpreter	Conditions
9-8-2011	Lemoore UHSD	Gayle Tackett	1. The Lemoore UHSD must provide Ms. Tackett with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2012, the Lemoore UHSD must provide CDE with new assessment scores for Ms. Tackett. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. If Ms. Tackett does not meet the qualification standard, the Lemoore UHSD will not request a waiver for the 2012-13 school year.
18-7-2011	Lindsay USD	Brianna Terrill	1. The Lindsay USD must provide Ms. Terrill with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2012, the Lindsay USD must provide CDE with new assessment scores for Ms. Terrill. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. If Ms. Terrill does not meet the qualification standard, the Lemoore UHSD will not request a waiver for the 2012-13 school year.
23-7-2011	Lindsay USD	Sara Palmitessa	1. The Lindsay USD must provide Ms. Palmitessa with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2012, the Lindsay USD must provide CDE with new assessment scores for Ms. Palmitessa. The scores must be from one of the assessments named in 5 *CCR* 3051.16.

Waiver Number	LEA	Interpreter	Conditions
24-8-2011 25-8-2011 26-8-2011	El Dorado COE	Mary Coburn Susie Parker Michaela Radney	1. The El Dorado COE must provide Ms. Coburn with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2012, the El Dorado COE must provide CDE with new assessment scores for Ms. Terrill. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. If Ms. Coburn, Ms. Parker, and Ms. Radney do not meet the qualification standard, the El Dorado COE will not request a waiver for the 2012-13 school year.
10-8-2011 11-8-2011	Dinuba ESD	Rosa Velasco Eva Martinez	1. The Dinuba ESD must provide Ms. Velasco with weekly one-on-one mentorship, based on an individualized professional development plan, by a qualified interpreter. 2. By June 2012, the Dinuba ESD must provide CDE with new assessment scores for Ms. Velasco. The scores must be from one of the assessments named in 5 *CCR* 3051.16. 3. If Ms. Velasco and Ms. Martinez do not meet the qualification standard, the Dinuba ESD will not request a waiver for the 2012-13 school year.
15-7-2011	Clovis USD	Roland Hendrix	1. Until Mr. Hendrix has met the qualification standard, the Clovis Unified School District (USD) must provide him with weekly one-on-one mentorship, based upon an individualized professional development plan, by a qualified interpreter. Documentation of participation in mentoring must be provided to CDE with any future waiver requests. 2. By June 2012, the Clovis USD must provide CDE with new assessment scores for Mr. Hendrix. The scores must be from one of the assessments named in the *California Code of Regulations,* Title 5, Section 3051.16(b)(3).

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	6	6	3	9	8	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
LEMOORE UNION HIGH SCHOOL DISTRICT	SUSAN MATTOS, H.R. DEPARTMENT	smattos@luhsd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
5 POWELL AVENUE	LEMOORE	CA	93245	(559) 924-6610, Ext. 353 Fax Number: (559) 924-9212

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/11/11 To: 6/30/12	August 11, 2011	August 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**
Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: ____**Gayle Tackett**_____

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): July 7, 2011

Name of bargaining unit and representative(s) consulted: Federation of Classified Employees, Local 4870, Cathy Zaharris, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __X_ Notice posted at each school _X__ Other: *(Please specify)* Lemoore City Hall, Lemoore Public Library and West Hill College

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Lemoore High School Advisory Council
Date the committee/council reviewed the waiver request: ~~August 8, 2011~~ **August 15, 2011 per Susan Mattos Jb 8/23/11**
Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments: See Attached APPENDIX "A"

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)_X_* has a student population of _2200_____ and is located in a __(*urban, rural, or small city etc.)*__ in _KINGS_____ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: DEBBIE MURO, SUPERINTENDENT	Date: 8/12/11
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

NAME - Gayle Tackett – Remediation Plan
POSITION TITLE – Educational Interpreter- Lemoore Union High School District

Effective July 1, 2009, as required by California Code of Regulations, Sections 3051.16 and 3065, regulations specify the following qualification standards for educational interpreters:

By July 1, 2009, and thereafter, an educational interpreter shall be certified by the National RID; or 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, or the NAD assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on her behalf. Waiver requests would include this training plan. To receive a waiver, an interpreter would need to provide evidence to the Human Resources Dept. that she is taking a class, going to trainings and/or taking one of the required assessments to prove that she is working toward the required certification.

I understand that I do not yet meet the qualification standards for educational interpreters.

To become a certificated educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ Become certified by national RID or

Score 4.0 or above on one of the following assessments:

☐ EIPA
☒ ESSE
☐ NAD

Actions I will take to complete the above requirements: (Describe your plan)

☒ Take test preparation workshop on:
Date: Any future date offered in Kings or Tulare Counties

☒ Take on-line opportunities for Interpreter Training:
Date: 2011-2012 – Cypress College – Educational Interpreter Practicum

☒ Meet with a mentor on a regular basis:
Pat Thron & Laura Scott, certified interpreters Mentor/Teacher

☒ Use/work with resources offered at the Kings County Office of Education & Stimulus Tapes from Tulare County Office of Education.

☒ Take the ESSE assessment on:
Date: Has signed up to re-take test in September. Will continue to re-take test until necessary score achieved.

I further understand that my assigned teacher/mentor and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification.

_____ _____
Gayle Tackett, Educational Sign Language Interpreter Date

_____ _____
Administrator Signature Date

Copies to: Employee
Employee's Supervisor
LHS Principal

I:\forms\educational interpreter training plan

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **__Brianna Terrill_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _17-8-2009-W-12_ and date of SBE Approval_11/18/09__ Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 7/14/11

Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Washington Elementary School Site Council

Date the committee/council reviewed the waiver request: 7/11/11

Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **Brianna took the ESSE on 11/20/10, a new certificate was not provided with this evaluation. Rating on the prior evaluation was higher**

2. Copy of the latest Test Certification page: **Evaluation attached**

3. Name, dates and scores of previous assessments

ESSE in May 2008	**Expressive skills: 2.0**	**Receptive skill: 2.5 in ASL**
ESSE in April 2009	**Expressive skill: 3.0**	**Receptive skill: 3.5 in PSE**
ESSE in January 2010	**Expressive skill: 3.0**	**Receptive skill: 4.0 in PSE**
ESSE in May 2010	**A new certificate was not provided with evaluation. Rating on the prior evaluation was higher**	

4. Date of hire 12/14/04

5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration. **Attached**

8. Demographic Information: (*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.		
District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16(b)(3) and 3065, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ES SEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. As a condition for waiver approval, a remediation plan must be in place and evidence must be submitted to prove that the educational interpreter is making satisfactory progress towards meeting certification requirements.

I understand that I do not meet the standard for educational interpreters as outlined above and in order to become a certified educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ RID National Certification

Score 4.0 or above on one of the following assessments:

☐ EIPA ☒ ESSE-I/R ☐ NAD/ACCI

Actions I will take to complete the above requirements:
(Describe your plan)

☒ Take the test preparation interpreter course offered by Cypress College on:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Participate in district sponsored staff development for interpreter test preparation led by the certified lead educational interpreter and supervised by the Director of Special Education.
Date(s): Each Wednesday during district-wide staff development time.

☒ Participate in monthly meetings with the Director of Special Education and Principal to review educational interpreter effectiveness and improvement of educational interpreter skills.
Date(s): Unknown at this time, TBD with Principal

☒ Participate in supplemental educational interpreter training workshops as directed by the Director of Special Education.
Date(s): Unknown at this time, TBD

☒ Take on-line opportunities for Interpreter Trainings:
Date(s): Unknown at this time, TBD

☒ Meet with mentor for individualized coaching on a weekly basis:
Mentor Signature: Unknown at this time, TBD

☒ Use/work with resources offered at Tulare County Office of Education/ Deaf and Hard of Hearing Service Center:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Take the ESSE-I/R assessment before the last day of school as sponsored by Tulare County Office of Education on:
Date: Unknown at this time, TBD

I further understand that the Director of Special Education and I will discuss my Certification Remediation Plan regularly to ensure that I am actively working toward the required interpreter certification.

Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **__Sara Palmitessa_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 7/14/11

   Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Washington Elementary School Site Council

   Date the committee/council reviewed the waiver request: 7/11/11

   Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **Sara took the ESSE on April 30, 2011**
2. Copy of the latest Test Certification page: **Have not received certification page yet for ESSE Test taken on 4/30/11.**
3. Name, dates and scores of previous assessments **Educational Interpreter Performance Assessment Pre-Hire Screening Report through Boys Town Research Hospital, 6/28/11, Recommendation: Hire, Full EIPA Assessment within 1 year of Employment.**
4. Date of hire **August 17, 2010**
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16(b)(3) and 3065, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ES SEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. As a condition for waiver approval, a remediation plan must be in place and evidence must be submitted to prove that the educational interpreter is making satisfactory progress towards meeting certification requirements.

I understand that I do not meet the standard for educational interpreters as outlined above and in order to become a certified educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ RID National Certification

Score 4.0 or above on one of the following assessments:

☐ EIPA ☒ ESSE-I/R ☐ NAD/ACCI

Actions I will take to complete the above requirements:
(Describe your plan)

☒ Take the test preparation interpreter course offered by Cypress College on:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Participate in district sponsored staff development for interpreter test preparation led by the certified lead educational interpreter and supervised by the Director of Special Education.
Date(s): Each Wednesday during district-wide staff development time.

☒ Participate in monthly meetings with the Director of Special Education and Principal to review educational interpreter effectiveness and improvement of educational interpreter skills.
Date(s): Unknown at this time, TBD with Principal

☒ Participate in supplemental educational interpreter training workshops as directed by the Director of Special Education.
Date(s): Unknown at this time, TBD

☒ Take on-line opportunities for Interpreter Trainings:
Date(s): Unknown at this time, TBD

☒ Meet with mentor for individualized coaching on a weekly basis:
Mentor Signature: Unknown at this time, TBD

☒ Use/work with resources offered at Tulare County Office of Education/ Deaf and Hard of Hearing Service Center:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Take the ESSE-I/R assessment before the last day of school as sponsored by Tulare County Office of Education on:
Date: Unknown at this time, TBD

I further understand that the Director of Special Education and I will discuss my Certification Remediation Plan regularly to ensure that I am actively working toward the required interpreter certification.

Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
0	9	1	0	0	9	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
El Dorado County Office of Education	Bob Stromberg Director, Special Education Support Services	bstromberg@edcoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
6767 Green Valley Road	Placerville	California	95667	530-295-2274 Fax Number: 530-621-1397

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/2011 To: 6/30/2012	7/5/2011	7/5/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities

Topic of the waiver: Educational Interpreter not Meeting State and Federal Qualifications

Name of Interpreter: Mary Coburn

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 6/27/2011

Name of bargaining unit and representative(s) consulted: Brenda Higgins, Chapter 488 President, California School Employees Association for the El Dorado County Office of Education.

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _ Notice posted at each school _X_ Other: *(Please specify)* Special Hearing Notice Posted three separate places on the EDCOE Campus.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: 6/28/2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (Strike-out below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
EDCOE DHOH Program has a student population of 4 and is located in Shingle Springs and Placerville in El Dorado County

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Vicki Barber	Title: Superintendent	Date: 7/5/2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EL DORADO COUNTY OFFICE OF EDUCATION
EMPLOYEE PLAN OF ASSISTANCE

NAME:___Mary Coburn_____ PROGRAM___Special Services_____ EFFECTIVE DATE: __8/17/2011_____

1. Performance Deficiencies	2. Behavior or Results Desired by Management	3. Action Employee Will Take to Correct Deficiencies	4. Action Management Will Take to Help Correct Deficiencies	5. Completion Date
Mary has failed to reach the State mandated EIPA score of 4.0.	Must achieve an EIPA score of 4.0 no later than June 30, 2012	Mary will work with the RID certified mentor and/or DH/H teacher on: • Improving processing time that is efficient and results in fluency and conveying the overall message, including the teacher's content and intent. Focus on clear sentence boundaries to manage the flow of the delivery and to ensure semantically accurate vocabulary. • Improving the use of prosodic features to show emphasis, affect and emotion, specifically focusing on conveying the educational importance of the content. • Further develop the production of non-manual markers to show adverbs and adjectives. • Improving spatial organization to organize, describe, compare, and establish discourse referents. • Increasing and improving the use of the ASL classifier system. • Improving the appropriate use of fingerspelling and representation of key vocabulary. Improving production and numbers. • Improving Sign to English skills, both receptive and expressive. Will specifically focus on receptive fingerspelling and conveying the signer's non-manual markers and ASL morphology.	Provide tutor, and time within the work day to receive training/tutoring and provide workshops as available. Will film samples of work, self assess the skill domains assessed by the EIPA, and work with the RID certified mentor to determine the root causes of skills patterns. Work with mentor to develop activities to improve skills.	

Continued on Back

PAGE TWO - El Dorado County Office of Education Employee Plan of Assistance

I understand this Plan of Assistance will be placed in my personnel file two months from its effective date. I also understand that a conference with my immediate supervisor/evaluator will be held approximately six weeks after the effective date of this Plan of Assistance to determine which one of the three options listed below will occur. I further understand that my cooperation will be a factor in determining whether I have satisfactorily met this Plan of Assistance.

1. Identification that deficiencies have been remediated and the Plan of Assistance is concluded.
2. Satisfactory progress has been noted, but not all deficiencies have been remediated so the Plan of Assistance is continued with new target dates established.
3. Standards of expected performance have not been met and the decision to review continued employment options is made.

SIGNATURES acknowledging the Plan of Assistance:

Mary Coburn _____ 8/24/2011
Employee Date

Bob Stromberg_____ _____8/24/2011
Evaluator Date

_____/_____
Evaluator Date

Betsy Christ_____ __8/24/2011
Evaluator=s Supervisor Date

Coleen M Johnson_____8/24/2011
Director of Human Resources Date

SIGNATURES acknowledging the RESULT
of the Plan of Assistance is option number ____ as shown above.

I, the employee, understand that my signature indicates I have been fully informed of the results of the Plan of Assistance. It does not necessarily mean I am in agreement. I also understand that I may write a response for my personnel file within five working days from the time this Plan of Assistance is officially stamped and placed in my personnel file.

_____ / _____
Employee Date

_____/_____
Evaluator Date

_____/_____
Evaluator Date

_____/_____
Evaluator=s Supervisor Date

_____/_____
Director of Human Resources Date

Evaluator COMMENTS on results of the Plan of Assistance:

_____

_____

_____

Employee COMMENTS on results of the Plan of Assistance:

_____

_____

_____

ROP\pa 1/96 WN/mab

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	9	1	0	0	9	0

Local educational agency: **El Dorado County Office of Education**	Contact name and Title: **Bob Stromberg** **Director, Special Education Support Services**	Contact person's e-mail address: **bstromberg@edcoe.org**
Address: (City) (State) (ZIP) **6767 Green Valley Road** **Placerville** **California** **95667**		Phone (and extension, if necessary): **530-295-2274** Fax Number: **530-621-1397**
Period of request: (month/day/year) From: **8/1/2011** To: **6/30/2012**	Local board approval date: (Required) **7/5/2011**	Date of public hearing: (Required) **7/5/2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Susie Parker**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X**__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **6/27/2011**

Name of bargaining unit and representative(s) consulted: **Brenda Higgins,** Chapter 488 President, California School Employees Association for the El Dorado County Office of Education

The position(s) of the bargaining unit(s): __ Neutral _**X**_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _ Notice posted at each school _**X**__ Other: *(Please specify)* **Special Hearing Notice Posted three separate places on the EDCOE Campus.**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: **6/28/2011**

Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
EDCOE DHOH Program has a student population of **4** and is located in **Shingle Springs and Placerville in El Dorado County.**

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Vicki Barber	Superintendent	7/5/2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EL DORADO COUNTY OFFICE OF EDUCATION
EMPLOYEE PLAN OF ASSISTANCE

NAME:___Susie Parker_____ PROGRAM___Special Services_____ EFFECTIVE DATE: __8/17/2011_____

1. Performance Deficiencies	2. Behavior or Results Desired by Management	3. Action Employee Will Take to Correct Deficiencies	4. Action Management Will Take to Help Correct Deficiencies	5. Completion Date
Susie has failed to reach the State mandated EIPA score of 4.0.	Must achieve an EIPA score of 4.0 no later than June 30, 2012	Susie will work with the RID certified mentor and/or DH/H teacher on: • Improving processing time that is efficient and results in fluency and conveying the overall message, including the teacher's content and intent. Focus on clear sentence boundaries to manage the flow of the delivery and to ensure semantically accurate vocabulary. • Improving the use of prosodic features to show emphasis, affect and emotion, specifically focusing on conveying the educational importance of the content. • Further develop the production of non-manual markers to show adverbs and adjectives. • Improving spatial organization to organize, describe, compare, and establish discourse referents. • Increasing and improving the use of the ASL classifier system. • Improving the appropriate use of fingerspelling and representation of key vocabulary. Improving production and numbers. • Improving Sign to English skills, both receptive and expressive. Will specifically focus on receptive fingerspelling and conveying the signer's non-manual markers and ASL morphology.	Provide tutor, and time within the work day to receive training/tutoring and provide workshops as available. Will film samples of work, self assess the skill domains assessed by the EIPA, and work with the RID certified mentor to determine the root causes of skills patterns. Work with mentor to develop activities to improve skills.	

Continued on Back

I understand this Plan of Assistance will be placed in my personnel file two months from its effective date. I also understand that a conference with my immediate supervisor/evaluator will be held approximately six weeks after the effective date of this Plan of Assistance to determine which one of the three options listed below will occur. I further understand that my cooperation will be a factor in determining whether I have satisfactorily met this Plan of Assistance.

1. Identification that deficiencies have been remediated and the Plan of Assistance is concluded.
2. Satisfactory progress has been noted, but not all deficiencies have been remediated so the Plan of Assistance is continued with new target dates established.
3. Standards of expected performance have not been met and the decision to review continued employment options is made.

SIGNATURES acknowledging the Plan of Assistance:

Bob Stromberg_____ _____8/24/2011
Evaluator Date

Betsy Christ_____ __8/24/2011
Evaluator=s Supervisor Date

Susie Parker _____ 8/24/2011
Employee Date

_____/_____
Evaluator Date

Coleen M Johnson_____8/24/2011
Director of Human Resources Date

SIGNATURES acknowledging the RESULT
of the Plan of Assistance is option number ____ as shown above.

_____ / _____
Employee Date
_____/_____
Evaluator Date
_____/_____
Evaluator=s Supervisor Date

I, the employee, understand that my signature indicates I have been fully informed of the results of the Plan of Assistance. It does not necessarily mean I am in agreement. I also understand that I may write a response for my personnel file within five working days from the time this Plan of Assistance is officially stamped and placed in my personnel file.

_____/_____
Evaluator Date
_____/_____
Director of Human Resources Date

Evaluator COMMENTS on results of the Plan of Assistance:

_____
_____

_____

Employee COMMENTS on results of the Plan of Assistance:

_____
_____

_____

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	9	1	0	0	9	0

Local educational agency: El Dorado County Office of Education	Contact name and Title: Bob Stromberg Director, Special Education Support Services	Contact person's e-mail address: bstromberg@edcoe.org
Address: (City) (State) (ZIP) 6767 Green Valley Road Placerville California 95667		Phone (and extension, if necessary): 530-295-2274 Fax Number: 530-621-1397
Period of request: (month/day/year) From: 8/1/2011 To: 6/30/2012	Local board approval date: (Required) 7/5/2011	Date of public hearing: (Required) 7/5/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Michaela Radney**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X**__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **6/27/2011**

Name of bargaining unit and representative(s) consulted: **Brenda Higgins**, Chapter 488 President, California School Employees Association for the El Dorado County Office of Education

The position(s) of the bargaining unit(s): __ Neutral _**X**_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _ Notice posted at each school _**X**__ Other: *(Please specify)* **Special Hearing Notice Posted three separate places on the EDCOE Campus.**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: **6/28/2011**

Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
EDCOE DHOH Program has a student population of **4** and is located in **Shingle Springs and Placerville in El Dorado County.**

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Vicki Barber	Superintendent	7/5/2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EL DORADO COUNTY OFFICE OF EDUCATION
EMPLOYEE PLAN OF ASSISTANCE

NAME:___Michaela Radney_____ PROGRAM___Special Services_____ EFFECTIVE DATE: _-_8/17/2011_____

1. Performance Deficiencies	2. Behavior or Results Desired by Management	3. Action Employee Will Take to Correct Deficiencies	4. Action Management Will Take to Help Correct Deficiencies	5. Completion Date
Michaela has failed to reach the State mandated EIPA score of 4.0.	Must achieve an EIPA score of 4.0 no later than June 30, 2012	Michaela will work with the RID certified mentor and/or DH/H teacher on: • Improving processing time that is efficient and results in fluency and conveying the overall message, including the teacher's content and intent. Focus on clear sentence boundaries to manage the flow of the delivery and to ensure semantically accurate vocabulary. • Improving the use of prosodic features to show emphasis, affect and emotion, specifically focusing on conveying the educational importance of the content. • Further develop the production of non-manual markers to show adverbs and adjectives. • Improving spatial organization to organize, describe, compare, and establish discourse referents. • Increasing and improving the use of the ASL classifier system. • Improving the appropriate use of fingerspelling and representation of key vocabulary. Improving production and numbers. • Improving Sign to English skills, both receptive and expressive. Will specifically focus on receptive fingerspelling and conveying the signer's non-manual markers and ASL morphology.	Provide tutor, and time within the work day to receive training/tutoring and provide workshops as available. Will film samples of work, self assess the skill domains assessed by the EIPA, and work with the RID certified mentor to determine the root causes of skills patterns. Work with mentor to develop activities to improve skills.	

Continued on Back

I understand this Plan of Assistance will be placed in my personnel file two months from its effective date. I also understand that a conference with my immediate supervisor/evaluator will be held approximately six weeks after the effective date of this Plan of Assistance to determine which one of the three options listed below will occur. I further understand that my cooperation will be a factor in determining whether I have satisfactorily met this Plan of Assistance.

1. Identification that deficiencies have been remediated and the Plan of Assistance is concluded.
2. Satisfactory progress has been noted, but not all deficiencies have been remediated so the Plan of Assistance is continued with new target dates established.
3. Standards of expected performance have not been met and the decision to review continued employment options is made.

SIGNATURES acknowledging the Plan of Assistance:

Bob Stromberg_____ _____8/24/2011
Evaluator Date

Betsy Christ_____ __8/24/2011
Evaluator=s Supervisor Date

Michaela Radney _____ 8/24/2011
Employee Date

_____/_____
Evaluator Date

Coleen M Johnson_____8/24/2011
Director of Human Resources Date

SIGNATURES acknowledging the RESULT
of the Plan of Assistance is option number ____ as shown above.

_____ / _____
Employee Date
_____/_____
Evaluator Date
_____/_____
Evaluator=s Supervisor Date

I, the employee, understand that my signature indicates I have been fully informed of the results of the Plan of Assistance. It does not necessarily mean I am in agreement. I also understand that I may write a response for my personnel file within five working days from the time this Plan of Assistance is officially stamped and placed in my personnel file.

_____/_____
Evaluator Date
_____/_____
Director of Human Resources Date

Evaluator COMMENTS on results of the Plan of Assistance:

_____
_____
_____

Employee COMMENTS on results of the Plan of Assistance:

_____
_____
_____

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: __X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	8	7	8

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Dinuba Unified School District	Joe Martinez, Director of Special Student Services	directorssservices@dinuba.k12.ca.us
Address: (City) (State) (ZIP) 1327 E. El Monte Way Dinuba Ca 93618		Phone (and extension, if necessary): 559-595-7200 Ext. 216
Period of request: (month/day/year) 7/2/2011 **NS** From: ~~7/1/2011~~ To: 6/30/2012	Local board approval date: (Required) August 11, 2011	Date of public hearing: (Required) Scheduled August 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Rosa Velasco**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **24-7-2010-W-18** and date of SBE Approval **11/10/2010**

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 6/28/2011

Name of bargaining unit and representative(s) consulted: Sage Clark, Member, California School Employees Association
kak 9/1/11

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Lincoln Elementary Schoolsite Council and Washington Intermediate Schoolsite Council

Date the committee/council reviewed the waiver request: ~~TBD~~ August 31, 2011 kak 9/1/11

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Rosa Velasco is an Educational Sign Language Interpreter whose services are valued by Dinuba Unified School District. With this waiver we can better meet the needs of more of our students who are deaf and hard of hearing. Without a waiver for Rosa, our program will not run effectively as our students will be in the general education classroom without an interpreter working with them. Rosa has been employed as an Educational Sign Interpreter since 8/22/05. Rosa has a current score of 4.0 (expressive; April 2009) and 3.2 (receptive) on the Education Sign Skills, Evaluation (ESSE) from the April 2011 administration date, which does not meet the qualifications set by Title 5 Educational regulations 3051.16. However, this is an improvement from the January 2010 administration (Receptive = 2.5). Rosa has been working to raise her scores on the ESSE by taking on-line classes through Cypress College, receiving mentorship from a certified interpreter and has enrolled in test prep courses. Rosa has been and will continue to be mentored by a certified educational interpreter and an educational specialist who is credentialed in Deaf education. A copy of Rosa Velasco's Remediation Plan is attached to this Waiver Request.

8. Demographic Information:
(*District/school/program) Dinuba Unified School District/Washington Intermediate School* has a student population of 5,604 and is located in a small city (*urban, rural, or small city etc.)* in Tulare County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Dinuba Unified School District
Educational Interpreter
Remediation Plan (11-12)

Name: Rosa Velasco
Site: Washington Intermediate School Assignment: Educational Interpreter

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16 and 3065 regulations specify the following qualification standards for educational interpreters:

By July 1, 2009 and thereafter, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard; the district may apply for a one-year waiver on their behalf. Waiver requests would include this training plan. To receive a waiver, interpreter would need to provide evidence to HR that they are taking a class, going to trainings and/or taking one of the required assessments to prove that they are working towards the required certification.

I understand that I do not yet meet the qualification standards for educational interpreters

To become a certified educational interpreter, I must meet one of the following options:

X Become a certified by national RID:
Score 4.0 or above on one of the following assessments:
___EIPA
X ESSEI/R
___NAD/ACCI

Actions I will take to complete the above requirements

X Take test preparation workshop on:
Date(s):

X Take on-line opportunities for Interpreter Trainings:

Use/work with resources offered at DHHSC Library:

X Take the ESSEI/R assessment on:
Date: 05/12

X Meet with a mentor on a regular basis: Dennis Devino, Cypress College Instructor

X Meet with mentor Jane Gahl, Tulare County Office of Education Deaf/Hard of Hearing Teacher

I further understand that the Director of Special Student Services and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification. If a waiver is granted by CDE, it will be valid until the end of the 2011/2012 school year. If you are unable to provide documentation of a minimum 4.0 on the EIPA, ESSE or RID by June 30, 2012 your assignment as a sign language interpreter/tutor may be terminated.

_____ _____
Educational Interpreter Signature Date

_____ _____
Administrator Signature Date

_____ _____
CSEA Chapter President Date

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: __X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	8	7	8

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Dinuba Unified School District	Joe Martinez, Director of Special Student Services	directorssservices@dinuba.k12.ca.us
Address: (City) (State) (ZIP) 1327 E. El Monte Way Dinuba Ca 93618		Phone (and extension, if necessary): 559-595-7200 Ext. 216
Period of request: (month/day/year) 7/2/2011 NS From: ~~7/1/2011~~ To: 6/30/2012	Local board approval date: (Required) Scheduled August 11, 2011	Date of public hearing: (Required) Scheduled August 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**
Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Eva Martinez**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **25-7-2010-W-18** and date of SBE Approval **11/10/2010**

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 6/28/2011

Name of bargaining unit and representative(s) consulted: Sage Clark, Member, California School Employees Association

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Lincoln Elementary Schoolsite Council and Washington Intermediate Schoolsite Council

Date the committee/council reviewed the waiver request: ~~TBD~~ August 31, 2011 kak 9/1/11

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Eva Martinez is an Educational Sign Language Interpreter whose services are valued by Dinuba Unified School District. With this waiver we can better meet the needs of more of our students who are deaf and hard of hearing. Without a waiver for Eva, our program will not run effectively as our students will be in the general education classroom without an interpreter working with them. Eva has been employed as an Educational Sign Interpreter since 8/14/08. Eva has a current score of 4.0 (expressive; April 2009) and 3.4 (receptive) on the Education Sign Skills, Evaluation (ESSE) from the April 2011 administration date, which does not meet the qualifications set by Title 5 Educational regulations 3051.16. However, this is an improvement from the January 2010 administration (Receptive = 3.2). Eva has been working to raise her scores on the ESSEI/R by taking on-line classes through Cypress College, receiving mentorship from a certified interpreter and has enrolled in test prep courses. Eva has been and will continue to be mentored by a certified interpreter and an educational specialist who is credentialed in Deaf education. A copy of Eva's Martinez Remediation Plan is attached to this Waiver Request.

8. Demographic Information:
(*District/school/program)Dinuba Unified School District/Lincoln Elementary* has a student population of 5,604 and is located in a small city (*urban, rural, or small city etc.)* in Tulare County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Dinuba Unified School District
Educational Interpreter
Remediation Plan (11-12)

Name: Eva Maria Martinez
Site: Lincoln Elementary Assignment: Educational Interpreter

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16 and 3065 regulations specify the following qualification standards for educational interpreters:

By July 1, 2009 and thereafter, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard; the district may apply for a one-year waiver on their behalf. Waiver requests would include this training plan. To receive a waiver, interpreter would need to provide evidence to HR that they are taking a class, going to trainings and/or taking one of the required assessments to prove that they are working towards the required certification.

I understand that I do not yet meet the qualification standards for educational interpreters

To become a certified educational interpreter, I must meet one of the following options:

X Become a certified by national RID:
Score 4.0 or above on one of the following assessments:
___EIPA
X ESSEI/R
___NAD/ACCI

Actions I will take to complete the above requirements

X Take test preparation workshop on:
Date(s):

X Take on-line opportunities for Interpreter Trainings:

Use/work with resources offered at DHHSC Library:

X Take the ESSEI/R assessment on:
Date: TBD

X Meet with a mentor on a regular basis: Dennis Devino, Cypress College Instructor

X Meet with mentor Jane Gahl, Tulare County Office of Education Deaf/Hard of Hearing Teacher

I further understand that the Director of Special Student Services and I will discuss my Training Plan regularly to ensure that I am actively working toward the required interpreter certification. If a waiver is granted by CDE, it will be valid until the end of the 2011/2012 school year. If you are unable to provide documentation of a minimum 4.0 on the EIPA, ESSE or RID by June 30, 2012 your assignment as a sign language interpreter/tutor may be terminated.

_____ _____
Educational Interpreter Signature Date

_____ _____
Administrator Signature Date

_____ _____
CSEA Chapter President Date

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: __X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	0	6	2	1	1	7

Local educational agency: Clovis Unified School District	Contact name and Title: Mary Bass, SELPA Director	Contact person's e-mail address: marybass@cusd.com
Address: (City) (State) (ZIP) 1450 Herndon, Clovis, CA 93611		Phone (and extension, if necessary): 559-327-9410 Fax Number: 559-327-9429
Period of request: (month/day/year) From: Aug. 23, 2011 to June 30, 2012	Local board approval date: (Required) 7/13/11	Date of public hearing: (Required) 7/13/11

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Roland Hendrix**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 25-8-2010-WC-14 and date of SBE Approval 11/10/10
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? X No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s):

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper ___ Notice posted at each school X Other: *(Please specify)* Board Agenda

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Advisory Committee: Special Education Program Specialists, Human Resources, Family Resource Center (Parent), Special Ed. Teacher

Date the committee/council reviewed the waiver request: 6/21/11

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)Clovis Unified* has a student population of 38,458 and is located in a urban area (*urban, rural, or small city etc.)* in Fresno County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Clovis Unified School District
Remediation Plan for Educational Interpreters
(2011-2012)

A. Purpose:

To provide CUSD educational interpreters the resources and guidance needed to promote skill development and provide quality learning opportunities for the purpose of meeting the qualifications for testing as required by the California Department of Education.

B. Goals for the Professional Development Plan:

1. Develop the skills necessary to meet testing requirements.
2. Strengthen the support system among colleagues that will promote teamwork and effective peer mentoring.
3. Understand one's own strengths and weaknesses within the interpreting work.
4. Provide a framework that will encourage reflective analysis and self assessment of the work of interpreting.
5. Promote self-confidence resulting in effective interpreting and successful testing experiences.

C. Goals for Individual Mentoring

1. Review and understand feedback provided from previous testing results.
2. Provide opportunities to receive direct feedback regarding interpreting work during actual classroom interpreting.
3. Identify root causes and patterns of errors in interpreting work.
4. Develop individualized skill enhancement activities.
5. Set personal goals for specific areas of focus throughout the year.

D. Goals for Peer Mentoring

1. Develop the skills to become effective peer mentors.
2. Learn how to discuss the work of interpreting in collegial manner.
3. Learn how to provide meaningful feedback.
4. Develop a support system among colleagues.
5. Provide accountability.

E. The Professional Development Plan:

Educational interpreters will meet with the lead mentor one on one and/or in small groups, a minimum of two times per month from September until May. Utilizing a combination of traditional mentoring, peer mentoring, and topic specific workshops, the mentor will guide the interpreters in assessing areas of their work that need improvement. The process will begin by first reviewing and understanding feedback from previous testing results. With a clearer understanding of individuals' own strengths and weaknesses, Thursday sessions will include identifying patterns and exploring root causes and then developing appropriate strategies and skill building activities for improving interpreting performance. Periodically, sessions will include presentations and feedback from professionals in the education and interpreting fields. In addition, interpreters will be encouraged to attend workshops hosted by the local RID chapter, CCRID, when workshop topics are relevant.

Sessions with the lead mentor will include the following activities:

1. Dialoging and reflecting on the work produced during daily interpreting experiences.
2. Learning keys, techniques, and tools for successful self-analysis of interpreting work.

3. Post conferencing with interpreters regarding struggles and concerns in their interpreting work.
4. Hands on interpreting practice (both sign and voice) and analysis of their own interpreting work in breakout groups with other participants and one-on-one.
5. Expansion of vocabulary (both ASL and English) specific to classroom interpreting lessons and curriculum.
6. Participants will be encouraged to regularly video record samples of their interpreting work for the purpose of self-assessment.
7. Participants will also be encouraged to keep a journal recording reflections and questions about their daily interpreting.

D. Tentative schedule

1. Sessions will be held on Thursdays from 4:30 – 6:00 pm on the following dates.

September 8, 2011	January 26, 2012
September 22, 2011	February 9, 2012
October 6, 2011	February 23, 2012
October 20, 2011	March 8, 2012
November 3, 2011	March 22, 2012
November 17, 2011	April 5, 2012
December 1, 2011	April 19, 2012
December 15, 2011	May 3, 2012
January 12, 2012	May 17, 2012

E. Mentor

1. Lauren Lara, BA, Ed:K-12: Clovis Unified School District Staff Interpreter

I am committed to attending all of the above sessions and conferences. . **I understand that I may not be employed as an educational interpreter with CUSD unless I am able to attain a certification requirement of a level 4.**

_____ _____

Interpreter Signature Date

ITEM #W-4

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by five local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program. Waiver Numbers: Fountain Valley Elementary 2-8-2011 Orange Unified 7-8-2011 Soledad Unified 12-8-2011 East Whittier City 14-8-2011 Cupertino Union 15-8-2011	☒ **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 approved all waiver requests since the deadline for submission of the State Testing Apportionment Information Reports was added to the *California Code of Regulations (CCR)*, and the SBE Waiver Policy 08-#: State Testing Apportionment Informational Report Deadline (available at http://www.cde.ca.gov/re/lr/wr/documents/statetesting.doc).

Two of the local educational agencies (LEAs) meet the criteria for the SBE Streamlined Waiver Policy (available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc), achieving a Growth Academic Performance Index (API) score of 800 or higher in the current cycle. See last column on Attachment 1.

SUMMARY OF KEY ISSUES

The regulations for the State Testing Apportionment Information Report were amended in 2005 to include an annual deadline of December 31 for the return of the Apportionment Information Report for prior year testing for the Standardized Testing and Reporting (STAR) Program, the California High School Exit Examination (CAHSEE), and the California English Language Development Test (CELDT). The California Department of Education (CDE) sent letters in September 2005, announcing

SUMMARY OF KEY ISSUES (Cont.)

the new deadline in regulations to every LEA. This deadline was enacted to speed the process of final reimbursement of testing costs to the LEAs.

The LEAs filing for this waiver request missed the 2008–09 or the 2009–10 fiscal year deadline for requesting reimbursement due to the LEA closure during the holiday season or because the staff responsible for this report did not receive the report until after the December 31 deadline. A few LEAs reported that they were undergoing changes in administration and new staff did not realize that there was a December 31 deadline for submitting this report. One LEA reported that their office had moved and their mail was misplaced. Staff verified that these LEAs needed the waiver and each LEA had submitted its report after the deadline.

These LEAs are now all aware of this important change in the timeline and understand that they must submit their reports to the Assessment and Accountability Division for reimbursement. Therefore, the CDE recommends the approval of these waiver requests as required by regulation prior to final reimbursement.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

Period of request: December 31, 2009, to November 10, 2011

Local board approval date(s): Various dates

Public hearing held on date(s): Various dates

Bargaining unit(s) consulted on date(s): Various dates

Name of bargaining unit/representative(s) consulted: Various

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ Web site, post office, library, or board agenda

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: Various dates

FISCAL ANALYSIS (AS APPROPRIATE)

If the waivers are approved, these LEAs will be reimbursed for the costs of the STAR, CAHSEE, or the CELDT for the 2008–09 and 2009–10 school years. Total costs are indicated on Attachment 1.

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline - November 2011 (1 Page)

Attachment 2: General Waiver Request – Fountain Valley Elementary School District (1 Page) (Original waiver request is signed and on file at the SBE Office or the Waiver Office.)

Attachment 3: Fountain Valley Elementary School District Standardized Testing and Reporting Program Apportionment Information Report Spring 2009 (1 Page) (A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 4: General Waiver Request – Orange Unified School District (2 Pages) (Original waiver request is signed and on file at the SBE Office or the Waiver Office.)

Attachment 5: Orange Unified School District California English Language Development Test (CELDT) Apportionment Information Report 2009–10 Report (2 Pages) (A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 6: General Waiver Request – Soledad Unified School District (2 Pages) (Original waiver request is signed and on file at the SBE Office or the Waiver Office)

Attachment 7: Soledad Unified School District California High School Exit Examination Apportionment Information Report 2009-10 Administrations (1 Page) (A printed copy is available in the SBE Office or the Waiver Office.)

ATTACHMENT(S) (Cont.)

Attachment 8: General Waiver Request – East Whittier City School District (1 Page) (Original waiver request is signed and on file at the SBE Office or the Waiver Office.)

Attachment 9: East Whittier City School District Standardized Testing and Reporting Program Apportionment Information Report Spring 2010 (1 Page) (A printed copy is available in the SBE Office or the Waiver Office.)

Attachment 10: General Waiver Request – Cupertino Union School District (2 Pages) (Original waiver request is signed and on file at the SBE Office or the Waiver Office.)

Attachment 11: Cupertino Union School District California English Language Development Test (CELDT) Apportionment Information Report 2009–10 Report (1 Page) (A printed copy is available in the SBE Office or the Waiver Office.)

	California State Board of Education Policy	POLICY #
		08 - #
	WAIVER GUIDELINES	DATE
	State Testing Apportionment Informational Report Deadline	November 2008

REFERENCES

Authority: *Education Code (EC)* Section 33050, 862 (c)(2)(A)

Purpose: To waive portions of *California Code of Regulations*, Title 5 sections 862(c)(2)(A), 1225(b)(3)(A) and 11517.5(b)(1)(A).

HISTORICAL NOTES

None.

Background

The assessment apportionment funds for the Standardized Testing and Reporting (STAR) Program, California High School Exit Examination (CAHSEE), and California English Language Development Test (CELDT) are unrestricted funds which are used, among other things, to reimburse local educational agencies (LEAs) for local costs associated with the assessments. In order to be reimbursed for these expenses, the LEA must file a report with the California Department of Education (CDE).

All three regulations for the State Testing Apportionment Information Report were amended in 2005 to include an annual deadline of December 31 of each year (highlighted below) for the return of the Apportionment Information Report for prior year testing for STAR, CAHSEE, and CELDT to receive reimbursement.

If an LEA misses this deadline, they need to complete the entire local process to request a waiver of this deadline, and the State Board of Education must approve the waiver before the LEA can be reimbursed for the local costs associated with the assessments.

Statutory Provisions:

STAR program regulation CCR, Title 5 (5 CCR),Section 862 (c)(2)(A) requires that districts must send reports of the number of tests given to CDE by December 31; however in those same regulations, 5 CCR 862(c)(b)(2) allows a waiver of that deadline.

CAHSEE program regulation, 5 CCR 1225(b)(2)(A) requires that districts must send reports of the number of tests given to CDE by December 31; however, in those same regulations, 5CCR 862(c)(b)(2) allows a waiver of that deadline.

CELDT program regulation 5 CCR Section 11517.5(b)(1)(A) requires that districts must send reports of the number of tests given to CDE by December 31; however in those same regulations, 5 CCR 862(c)(b)(2) allows a waiver of that deadline.

The CDE Waiver Office has processed many waivers in the past, all of which were approved by the State Board of Education. CDE staff ensures that only waiver requests consistent with the evaluation guidelines are placed on the State Board's consent calendar for waivers.

Evaluation Guidelines

The LEA:

- Will describe the circumstances that caused them to miss the apportionment deadline(s).
- Indicate that they 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.
- Will put into place guidelines for all currently employed staff and new staff to follow so that this deadline will not be missed in the future.

Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline – November 2011

Local Educational Agency	Waiver Number	Test Report Missing	Report Submitted	Fiscal Year	Reimbursement Amount	Union Position	Streamlined Waiver Policy - API
Fountain Valley Elementary School District	2-8-11	Standardized Testing and Reporting (STAR)	Yes	2008–09	$12,507.80	Support	Yes, 892
Orange Unified School District	7-8-2011	California English Language Development Test (CELDT)	Yes	2009–10	$40,410.00	Support	Yes, 806
Soledad Unified School District	12-8-11	California High School Exit Examination (CAHSEE)	Yes	2009–10	$2,589.96	Support	No
East Whittier City School District	14-8-2011	STAR	Yes	2009–10	$18,084.08	Support	No
Cupertino Union School District	15-8-2011	CELDT	Yes	2009–10	$17,260.00	Support	No

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	9	8

Local educational agency: jb 8/11/11 **Fountain Valley Elementary School District**	Contact name and recipient of approval/denial notice: **Dr. Marc Ecker**	Contact person's e-mail address:**eckerm@fvsd.k12.ca.us**
Address: (City) (ZIP) **10055 Slater Avenue Fountain Valley, CA 92708**		Phone (and extension, if necessary): **714.843.3255** Fax number: **714.841.0356**
Period of request: From ~~**2008**~~ 12/31/09 to ~~**2009**~~ 11/10/11	Local board approval date: (Required) **July 21, 2011**	Date of public hearing: (Required) **July 21, 2011**

Jb 8/12/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one): **X** STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No **X** Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Jb 8/12/11 per Hermine Burns Fountain Valley Education Association (FVEA)
   Bargaining unit(s) consulted on date(s): **6/29/2011 California School Employees Association (CSEA)**
   Name of bargaining unit and representative(s) consulted: **Ed Eldridge, FVEA President & Martin Headland-Wauson,**
   The position(s) of the bargaining unit(s): ___ Neutral **X** Support ___ Oppose (*Please specify why*) **CSEA President**

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper X Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) **Paperwork was not received by the department that certifies apportionment information.**
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. **Staff will look for CDE Certification letter at the beginning of October each year from now on.**

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education (CDE)
Statewide Assessment Division
Report Date: October 19, 2009

Standardized Testing and Reporting Program
Apportionment Information Report
Spring 2009

Return to: Mei Tan, Analyst
Statewide Assessment Division
1430 N Street, Suite 5408
Sacramento, CA 95814

This report was compiled from Standardized Testing and Reporting (STAR) Program multiple-choice answer documents submitted for scoring for the California Standards Tests (CSTs), California Modified Assessment (CMA), California Alternate Performance Assessment (CAPA), and Standards-based Test in Spanish (STS). Sign, date, and return this report to the CDE by **December 31, 2009**. Certified reports postmarked after December 31, 2009, cannot be paid without a waiver request approved by the State Board of Education. Payment of late apportionment reports is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

District, County Office, or Charter School Name:

FOUNTAIN VALLEY ELEMENTARY

CDS Code: **30-66498** Charter #: **0000**

		Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Total	Rate	Funding
A	Number of students enrolled on the first day of multiple-choice CST, CMA, or CAPA testing	605	676	673	682	731	804	764	0	0	0	4,935		
B	Number of students enrolled after the first day of CST, CMA, or CAPA testing who were tested at the school's option	0	0	0	0	0	0	0	0	0	0	0		
C	Total Enrollment:	605	676	673	682	731	804	764	0	0	0	4,935		
D	Number of students administered any portion of the CST or the CMA*	602	671	670	673	728	800	754	0	0	0	4,898	**$2.52**	$12,342.96
E	Number of students with significant cognitive disabilities assessed with the CAPA	3	5	2	8	2	4	7	0	0	0	31	**$5.00**	$155.00
F	Number of students exempted from testing by written parent or guardian request**	0	0	0	1	1	0	2	0	0	0	4	**$0.38**	$1.52
G	Number of students with demographic information only who were not tested for any reason other than parent/guardian exemption**	0	0	1	0	0	0	1	0	0	0	2	**$0.38**	$0.76
H	Total Students:	605	676	673	682	731	804	764	0	0	0	4,935		**$12,500.24**

	Designated Primary Language Test		STS : Grades 2-11												
I	Number of Spanish-speaking EL students receiving instruction in Spanish or who have been enrolled in a school in the U.S. for less than 12 months (mandated):	Tested	0	0	2	0	0	1	0	0	0	0	3	**$2.52**	$7.56
		Not tested (demographic information only)	0	0	0	0	0	0	0	0	0	0	0	**$0.38**	$0.00
J	Number of Spanish-speaking EL students tested with the STS at the option of the district or charter school (optional)		0	0	0	0	0	0	0	0	0	0	0	**$2.52**	$0.00
K	Total Students:		0	0	2	0	0	1	0	0	0	0	3		**$7.56**

L	Number of demographic alerts (withheld for each student for whom the contractor had to request missing data during the scoring process)***	0	**($1.32)**	**$0.00**

* Students taking a combination of the CST and the CMA are only counted once.
**CST, CMA, or CAPA answer document.
***CST, CMA, STS, or CAPA answer document.

TOTAL STAR 2009 APPORTIONMENT [Row H + Row K + (-Row L)]:	**$12,507.80**

Certification: I certify the accuracy of the apportionment information required per *California Code of Regulations*, *Title 5, Education*, Division 1, Chapter 2, Subchapter 3.75, Section 862 as reflected on this report (Rows A, D, E, F, G, I, and J).

District Superintendent, County Superintendent, or Charter School Administrator Name	Superintendent's or Charter School Administrator's Signature	Date	District STAR Coordinator Name
			Phone:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	6	2	1

Local educational agency: Orange Unified School District	Contact name and recipient of approval/denial notice: Anne Truex, Administrative Director	Contact person's e-mail address: annet@orangeusd.org
Address: (City) (ZIP) 1401 N. Handy Street Orange, CA 92867		Phone (and extension, if necessary): 714-628-5405 Fax number: 714- 628-4096
Period of request: 12/31/10 11/10/11 From: ~~7/1/2009~~ to: ~~6/30/2010~~	Local board approval date: (Required) July 28, 2011	Date of public hearing: (Required) July 28, 2011

Jb 8/12/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**x**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _x__ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): **OUEA – 7/20/2011; CSEA – 7/20/2011**
   Name of bargaining unit and representative(s) consulted:
   The position(s) of the bargaining unit(s): ___ Neutral _x__ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   _x_ Notice in a newspaper : **Orange County Register** - **July 18, 2011** ___ Notice posted at each school
   ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) **See attached continuation page.**

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Renae Dreier, Ed.D. Superintendent of Schools	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER
Orange Unified School District – 30 66621
Continuation Page

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.)

The CELDT Apportionment report/letter sent to districts late October/early November was not received by Orange Unified School District. Therefore, the CELDT Apportionment Information Report was not returned to the California Department of Education by the required due date. A general waiver request is now required in order to receive the apportionment amount.

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

- The Superintendent's Office will disseminate reports/letters/communications from California Department of Education to appropriate staff members upon receipt.
- Request that the California Department of Education send reports/letters/communications not only to the Superintendent, but also to the LEA's point of contact.

California English Language Development Test (CELDT)
Apportionment Information Report
2009-10 Report

Return Form To:

Kerri Wong, AGPA
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite #4202
Sacramento, CA 95814

California Department of Education
Assessment, Accountability, and Awards Division

MUST BE POSTMARKED BY DECEMBER 31, 2010

County Name	ORANGE	***District Name***	Orange Unified
County Code	30	***District Code***	66621
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each local educational agency (LEA) shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and submit the certified report to the California Department of Education, postmarked by December 31. If postmarked after December 31, the Apportionment Information Report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by California Education Code (EC) Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of EC Section 60851 by the number of pupils in the school district assessed with the CELDT during the previous fiscal year. Apportionment payments will be processed upon receipt of certified reports. Return the form by U.S. mail to the address above. Faxed reports will not be processed for payment. Keep a copy for your records.

	Annual Assessment July 1 - October 31, 2009	*Initial Assessment Within 30 Days of Enrollment*	***Total Tested***	***Apportionment Amount***
Number of Pupils Tested July 1, 2009 – June 30, 2010	6657	1425	**8082**	**$40,410.00**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

County Superintendent, District Superintendent, or Charter School Director		District CELDT Coordinator	
Superintendent's (or Charter School Director's) Signature	Date	District CELDT Coordinator's Signature	Date
Superintendent's (or Charter School Director's) E-mail	Phone	District CELDT Coordinator's E-mail	Phone

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	7	5	4	4	0

Local educational agency: Soledad Unified School District	Contact name and recipient of approval/denial notice: Gary Johnson	Contact person's e-mail address: gjohnson@soledad.k12.ca.us
Address: (City) (ZIP) 1261 Metz Road, Soledad, CA 93960		Phone (and extension, if necessary): 831-678-1496 Fax number: 831-678-3646
Period of request: 12/31/10 to 11/10/11 ~~From 2009 to 2010~~ kak 8/29/2011	Local board approval date: (Required) August 10, 2011	Date of public hearing: (Required) August 10, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   _x_ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): June 29, 2011
   Name of bargaining unit and representative(s) consulted: Glenda Woodrow, Soledad Teachers Assoc. President
   The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper _X_ Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) See attached

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s)

There was a change of CAHSEE Coordinators and the new coordinator did not realize there was a deadline to submit the apportionment information report.

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

The new coordinator has placed a note on his calendar to ensure the report is submitted on time.

California Department of Education
Assessment, Accountability, and Awards
Report Date: November 3, 2010

California High School Exit Examination Apportionment Information Report 2009–10 Administrations

Return report to:Gayle Jamerson, Analyst
California Department of Education
1430 N Street, Suite 4202
Sacramento, CA 95814

This report was compiled from information taken from the California High School Exit Examination answer documents submitted for scoring examinations administered during the fiscal year July 1, 2009 through June 30, 2010. **All students are reported in the grade indicated on the answer document (answer documents indicating Post-Grade Twelve Students does not change the grade level).** To receive apportionment funds, the superintendent or charter school administrator must verify the accuracy, sign, date, and return this report to the California Department of Education (CDE) postmarked by **December 31, 2010**. **Reports postmarked later than December 31, 2010, must be accompanied by a waiver request as provided for by California *Education Code* Section 33050.** The CDE cannot release apportionment payments for late reports without a State Board of Education approved waiver.

District, County Office, or Charter School Name: **Soledad Unified**

CD/Code: **27 75440**

Administration	Row	Pupils Tested with Any Portion (Subject) of Exam	A Grade 10	B Grade 11	C Grade 12	D Adult	E Grade Unknown	F Totals A+B+C+D+E	G Rate	H Tested Apportionment Total (F x G)
July 28–29, 2009	1	Number Pupils Tested	0	0	18	0	0	18	$3.00	$54.00
October 6–7, 2009	2	Number Pupils Tested	0	0	70	22	0	92	$3.00	$276.00
November 3–4, 2009	3	Number Pupils Tested	0	105	53	0	0	158	$3.00	$474.00
December 5 & 12, 2009 (Sat.)	4	Number Pupils Tested	0	0	0	0	0	0	$3.00	$0.00
February 2–3, 2010	5	Number Pupils Tested	0	3	54	23	0	80	$3.00	$240.00
March 16–17, 2010	6	Number Pupils Tested	307	2	44	14	0	367	$3.00	$1,101.00
May 11–12, 2010	7	Number Pupils Tested	11	96	23	18	0	148	$3.00	$444.00
	8	**Total Pupils Tested:**	318	206	262	77	0	863	$3.00	$2,589.00

Administration	Row	Pupils Not Tested (Census) Demographic Information Only	Grade 10		Rate	Not Tested Apportionment Total (A x G)
February 2–3, 2010	9	Number Pupils Not Tested	0		$0.32	$0.00
March 16–17, 2010	10	Number Pupils Not Tested	3		$0.32	$0.96
	11	**Total Pupils Not Tested:**	3		$0.32	$0.96
				TOTAL APPORTIONMENT (Row 8 + Row 11):		$2,589.96

Certification: I certify (1) that all secure test materials have been returned and (2) the accuracy of the apportionment information, required per *California Code of Regulations*, Title 5, Section 1225, as reflected on this report.

Superintendent or Charter School Administrator Name	Superintendent or Charter School Administrator Signature	Date	District CAHSEE Coordinator Name	CAHSEE Coordinator Phone

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	4	8	5

Local educational agency: **East Whittier City School District**	Contact name and recipient of approval/denial notice: **Dorka Durón**	Contact person's e-mail address: **dduron@ewcsd.org**
Address: (City) (ZIP) **14535 E. Whittier Blvd, Whittier, CA 90605**		Phone (and extension, if necessary): **562.907.5939** Fax number:
Period of request: From **2010** to **2011**	Local board approval date: (Required) **8/22/2011**	Date of public hearing: (Required) **8/22/2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one): _**X**_ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
__ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
__ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No ___ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

Bargaining unit(s) consulted on date(s):
Name of bargaining unit and representative(s) consulted:
The position(s) of the bargaining unit(s): ___ Neutral __X_ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?
__ Notice in a newspaper ___ Notice posted at each school _X__ Other: *(Please specify)* **Post Office and 2 libraries**

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) **Unfortunately, missing the deadline was purely an inadvertent oversight. This deadline will not be missed again as the event will be placed on an annual calendar that sends reminders.**
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date: 8/23/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education (CDE)
Assessment, Accountability, and Awards Division
Report Date: October 15, 2010

Standardized Testing and Reporting Program
Apportionment Information Report
Spring 2010

Return to: Mei Tan, Analyst
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite 4202
Sacramento, CA 95814

This report was compiled from Standardized Testing and Reporting (STAR) Program multiple-choice answer documents submitted for scoring for the California Standards Tests (CSTs), California Modified Assessment (CMA), California Alternate Performance Assessment (CAPA), and Standards-based Test in Spanish (STS). Sign, date, and return this report to the CDE by **December 31, 2010**. Certified reports postmarked after December 31, 2010, cannot be paid without a waiver request approved by the State Board of Education. Payment of late apportionment reports is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

District, County Office, or Charter School Name:

EAST WHITTIER CITY ELEMENTARY

CDS Code: **19-64485** Charter #: **0000**

		Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Total	Rate	Funding
A	Number of students enrolled on the first day of multiple-choice CST, CMA, or CAPA testing	944	940	997	963	1,061	1,071	1,101	0	0	0	7,077		
B	Number of students enrolled after the first day of CST, CMA, or CAPA testing who were tested at the school's option	0	0	0	0	0	0	0	0	0	0	0		
C	Total Number Enrolled:	944	940	997	963	1,061	1,071	1,101	0	0	0	7,077		
D	Number of students administered any portion of the CST or the CMA*	929	921	985	937	1,048	1,059	1,086	0	0	0	6,965	**$2.52**	$17,551.80
E	Number of students with significant cognitive disabilities assessed with the CAPA	14	17	10	24	12	10	13	0	0	0	100	**$5.00**	$500.00
F	Number of students exempted from testing by written parent or guardian request**	1	0	0	2	0	0	1	0	0	0	4	**$0.38**	$1.52
G	Number of students with demographic information only who were not tested for any reason other than parent/guardian exemption**	0	2	2	0	1	2	1	0	0	0	8	**$0.38**	$3.04
H	Total Number of Students:	944	940	997	963	1,061	1,071	1,101	0	0	0	7,077		**$18,056.36**

	Designated Primary Language Test		STS : Grades 2-11												
I	Number of Spanish-speaking EL students receiving instruction in Spanish or who have been enrolled in a U.S. school for less than 12 months (mandated):	Tested	4	1	2	0	0	1	2	0	0	0	10	**$2.52**	$25.20
		Not tested (demographic information only)	0	0	0	0	0	0	0	0	0	0	0	**$0.38**	$0.00
J	Number of Spanish-speaking EL students tested with the STS at the option of the district or charter school (optional)		0	1	0	0	0	0	0	0	0	0	1	**$2.52**	$2.52
K	Total Number of Students:		4	2	2	0	0	1	2	0	0	0	11		**$27.72**

L	Number of demographic alerts (withheld for each student that the test contractor had to request missing data during the scoring process)***	0	**($1.32)**	**$0.00**

* Students taking a combination of the CST and the CMA are only counted once.
**CST, CMA, or CAPA answer document.
***CST, CMA, CAPA, or STS answer document.

TOTAL STAR 2010 APPORTIONMENT [Row H + Row K + (-Row L)]:	**$18,084.08**

Certification: I certify the accuracy of the apportionment information required per *California Code of Regulations*, Title 5, Education, Division 1, Chapter 2, Subchapter 3.75, Section 862 as reflected on this report (Rows A, D, E, F, G, I, and J).

District Superintendent, County Superintendent, or Charter School Administrator Name	Superintendent or Charter School Administrator Signature	Date	District STAR Coordinator Name
			Phone:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	3	6	9	4	1	9

Local educational agency: Cupertino Union School district	Contact name and recipient of approval/denial notice: Karen Barrett	Contact person's e-mail address: barrett_karen@cusdk8.org
Address: (City) (ZIP) 10300 Vista Drive. Cupertino CA		Phone (and extension, if necessary): 408-252-3000 x149 Fax number: 408-255-8830
Period of request: November 10 From December 31, 2010 to ~~June 30~~, 2011	Local board approval date: (Required) 8/23/11	Date of public hearing: (Required) 8/23/11

Jb 9/1/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**X**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No ___ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): 7/29/11 Cupertino Educators Association kak 8/31/11
   Name of bargaining unit and representative(s) consulted: CEA, David Villafana, President6
   The position(s) of the bargaining unit(s): ___ Neutral _X_ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* All local cities libraries

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) See attached.

5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education
General Waiver Request
Attachment—Page 2

4. Desired outcome/rationale

The District will continue to use this apportionment funding to provide on-going CELDT testing for incoming new students throughout the school year. Any remaining funds will be used for English Language Development training for our ELD Specialists who support mainstream teachers with EL students in their classrooms. The Cupertino Union School District did not meet the request criteria for July 2009 to June 30, 2010. This oversight was due to staffing changes in the program.

California English Language Development Test (CELDT)
Apportionment Information Report
2009-10 Report

Return Form To:

Kerri Wong, AGPA
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite #4202
Sacramento, CA 95814

California Department of Education
Assessment, Accountability, and Awards Division

MUST BE POSTMARKED BY DECEMBER 31, 2010

County Name	SANTA CLARA	***District Name***	Cupertino Union
County Code	43	***District Code***	69419
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each local educational agency (LEA) shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and submit the certified report to the California Department of Education, postmarked by December 31. If postmarked after December 31, the Apportionment Information Report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by California Education Code (EC) Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of EC Section 60851 by the number of pupils in the school district assessed with the CELDT during the previous fiscal year. Apportionment payments will be processed upon receipt of certified reports. Return the form by U.S. mail to the address above. Faxed reports will not be processed for payment. Keep a copy for your records.

	Annual Assessment July 1 - October 31, 2009	*Initial Assessment Within 30 Days of Enrollment*	***Total Tested***	***Apportionment Amount***
Number of Pupils Tested July 1, 2009 – June 30, 2010	1472	1980	**3452**	**$17,260.00**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

County Superintendent, District Superintendent, or Charter School Director		District CELDT Coordinator	
Superintendent's (or Charter School Director's) Signature	Date	District CELDT Coordinator's Signature	Date
Superintendent's (or Charter School Director's) E-mail	Phone	District CELDT Coordinator's E-mail	Phone

ITEM #W-5

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by five districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and/or 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Waiver Numbers: Coachella Valley Unified 8-8-2011 Lemon Grove 12-7-2011 Manteca Unified 1-8-2011 San Marcos Unified 29-6-2011 South Whittier Elementary 7-8-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three will be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waivers do not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by each district in its waiver application, the State Board of Education (SBE) finds that the districts' continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the districts would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of *Education Code (EC)* sections 41376 and/or 41378 will, if not waived, prevent the districts from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the districts' applications.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

EC Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, these districts are requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and/or subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The districts listed on Attachment 1 request flexibility to temporarily increase class sizes in kindergarten through grade three or grades one through three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008-09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

Each district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

CDE recommends, based on the finding above, that the class size penalties for

kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should any district exceed this new limit, the class size penalty would be applied per statute.

SUMMARY OF KEY ISSUES (continued)

Demographic Information: See each individual waiver.

Authority for Waiver: *EC* Section 41382

Period of request: See Attachment 1.

Local board approval date(s): See Attachment 1.

Position of bargaining unit(s): See Attachment 1.

Bargaining unit(s) consulted on date(s), name of unit: See Attachment 1.

Advisory committee(s) consulted, Dates and objections: See Attachment 1.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Coachella Valley Unified School District Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Lemon Grove School District Specific Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Manteca Unified School District Specific Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: San Marcos Unified School District Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 6: South Whittier Elementary School District Specific Waiver Request (7 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Education Code sections 41376 and 41378: For Kindergarten: Overall average 31; No class larger than 33. For Grades 1-3: Overall average 30; no class larger than 32

Waiver Number	District	Period of Request	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Bargaining Unit/Representatives Consulted and Dates Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted and Date	Estimated Annual Penalty Without Waiver	Fiscal Status
8-8-2011	Coachella Valley Unified School District	July 1, 2010 through June 29, 2012	For 2010-11: No class larger than 34. For 2011-12: Overall average 33; no class larger than 35	For 2010-11: Overall average 30, no class larger than 34. For 2011-12: Overall average 33; no class larger than 35	Coachella Valley Teachers' Association, Richard Pazo, President, 8/12/11 **Support**	May 26, 2011	District English Learner Advisory Committee 8/18/11	2010-11 $281,384 2011-12 $486,028	Qualified
12-7-2011	Lemon Grove School District	July 1, 2011 through June 29, 2013	Overall average 32; no class size larger than 33	Overall average 32; no class size larger than 33	Lemon Grove Teachers' Association 7/8/11 **Neutral**	July 12, 2011	District English Learner Advisory Committee 7/8/11 **oppose**	$250,818 each year	Positive
1-8-2011	Manteca Unified School District	July 1, 2010 through June 29, 2011	Overall average 32	Overall average 32, no class larger than 33 in kindergarten, no class larger than 32 in grades 1-3	Manteca Educator's Association, Ken Johnson, President, 5/25/11 **Support**	July 26, 2011	District Advisory Committee for State and Federal Programs 6/2/11	$1,351,835	Positive
29-6-2011	San Marcos Unified School District	July 1, 2010 through June 29, 2011	No class larger than 33	Overall average 30, no class larger than 33 in grades 1-3	San Marcos Educators Association, Michael DeVries, President 6/14/11 **Support**	June 13, 2011	San Elijo Elementary School Site Council 9/28/11	$146,090	Qualified
17-8-2011	South Whittier Elementary School District	July 1, 2011 through June 29, 2013	Overall average 34; no class larger than 36	Overall average 34; no class larger than 36	South Whittier Teachers' Association, Roberta Ellis President, and Christina Corrales, Co-President 9/9/11 **Neutral**	August 23, 2011	Administrator's Advisory Committee 8/11/11	$554,367 each year	Positive

Prepared by the California Department of Education Revised on 9/13/11

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Coachella Valley Unified School District	Jamie T. Brown, Asst Supt Business Services	Jamie.brown@cvusd.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
P.O. Box 847	Thermal	CA	92274	(760) 399-5137 ext 276 Fax number: (760) 399-4579

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/1/2010 To: 6/29/2012	May 26, 2011

LEGAL CRITERIA

1. Authority for the waiver: EC 41382___ Specific code section: EC 41378 & EC 41376 (a)(c)(d) ___
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: 41378 & 41376 (a)(c)(d) Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: This waiver asks for authority to waive both the average class size as well as the individual class size for K-3 classes.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 12, 2011
Name of bargaining units and representative(s) consulted: Richard Razo, President kak 9/6/11
Coachella Valley Teachers Association per Olga Delgado 8/23/11 jb
The position(s) of the bargaining unit(s): ___ Neutral __x_ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: DELAC District English Learner Advisory Committee per Olga Delgado 9/15/11 jb

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: August 18, 2011

__x_ Approve ___ Neutral ___ Oppose Jose Huerta
Were there any objection? Yes ___ No __X_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   Please see attached

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   Please see attached

8. Demographic Information:
   *(District/school/program)*Coachella Valley Unified School District has a student population of _18557_____ and is located in a _rural_(*urban, rural, or small city etc.)*__ in _Riverside_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _x_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**x**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 8/18/11
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

#6 Education Code or California Code of Regulations section to be waived:

For Kindergarten:

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

For Grades 1-3:

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal~~

~~apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

#7 Desired outcome/rationale:

The current state fiscal crisis has led to significant reduction in revenues to our District. Over $20 million has been reduced from our budget in the last three years, with another $18 million for the next fiscal year. Funding reductions imposed due to class-size penalties are calculated to be $222,569 for the 2010-11 fiscal year. Any loss of revenue negatively impacts our educational programs through reductions that reach the core academic programs such as reading, mathematics, and science.

In order to meet current budget challenges and remain fiscally solvent, the District is pursuing every opportunity to reduce costs to the unrestricted general fund. This includes maximizing staffing. Current bargaining agreements with certificated staff allow for class sizes up to 32 in grades K through 6. If classes exceed this, the District has a long-standing practice of paying the classroom teacher $10 per day for every child over the maximum. Because of the District's significant migrant population, enrollment fluctuates significantly, making load-balancing difficult. In order to ensure that no class size exceeds the limit, the District would have to over-staff, resulting in lower District-wide averages. The District cannot afford this. Class sizes were exceeded in 44 classes during the 2009-10 fiscal year. The waiver is needed to mitigate the impact of ADA loss from the penalty. The purpose of the waivers are not to permanently increase class size, but to allow some flexibility as the District has fluctuations in enrollment due to migrant student population movement. This waiver will help the District protect its fragile fiscal condition and allow the maximum efficiency in staffing.

Additionally, continuous load-balancing would be detrimental and disruptive to individual students. The flexibility the waiver would provide will help ensure a stable learning environment. All students, regardless of the size of their class, are being effectively instructed through differentiation and timely intervention. These intervention programs are being implemented as supplemental support pull-out programs for reading and math, and moving students around would negatively impact the pacing of these programs.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	2	0	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
LEMON GROVE SCHOOL DISTRICT	**GINA POTTER** **Asst. Superintendent Business**	gpotter@lgsd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
8025 LINCOLN STREET	**LEMON GROVE**	**CA**	**91945**	**(619) 825-5608** Fax number: **(619) 461-4539**

Period of request: (month/day/year)	Local board approval date: (Required)
From: **July 1, 2011** To**: June 29, 2013**	July 12, 2011

LEGAL CRITERIA

1. Authority for the waiver: EC Specific code section: 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it **finds** that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) **41376, 41378, 41379** Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: **Waiver of the class size penalty for exceeding the following parameters:**
KINDERGARTEN: Average class size not to exceed 31 students; no class larger than 33 students.
GRADES 1-3: Average class size not to exceed 30 students; no class larger than 32 students.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _N/A and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **California School Employees Association and Lemon Grove Teachers Association __July 8, 2011__**

Name of bargaining units and representative(s) consulted:
California School Employees Association: Denise Crano, President
Lemon Grove Teachers Association: Pierre Finney, President

The position(s) of the bargaining unit(s): **_X (California School Employees Association and Lemon Grove Teachers Association)_ Neutral** ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: **District English Learner Advisory Committee**

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. **Date advisory committee/council reviewed request: __July 8, 2011_____**

___ Approve ___ Neutral _**X**__ **Oppose "I understand the financial need the district is in and why the request is necessary however, as a parent signing for the District English Learner Advisory Committee, please mark that I reviewed but oppose the waiver." – Roy O. McClish, District English Learner Advisory Committee Chair.**

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   The District requests a waiver to temporarily increase class size in grades K-3 in order to reduce expenditures. The District faces severe fiscal challenges from a decade of declining enrollment, a lower than average revenue limit and persistent State funding reductions. The District has done everything possible to maintain reasonable class sizes but due to the lack of funding, we are forced to increase class size to avoid more demoralizing program cuts and staff lay-offs. The staffing cost savings from a temporary increase in class sizes is crucial to remain solvent.

8. Demographic Information:
   (District/school/program) Lemon Grove School District has a student population of __3,792__ and is located in a *small city* of Lemon Grove in San Diego County.

   8 Sites: Lemon Grove Middle School, Palm Middle School, Golden Avenue Elementary, Vista La Mesa Academy, Monterey Heights Elementary, San Miguel Elementary, San Altos Elementary, and Mount Vernon Elementary.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue?) **X** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: **SUPERINTENDENT**	Date:
Signature of SELPA Director (only if a Special Education Waiver) **N/A**		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	5	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Manteca Unified School District	Don Halseth Assistant Superintendent	dhalseth@musd.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2271 West Louise Ave.	Manteca	CA	95337	(209) 825-3200 Fax number: (209) 825-3295

Period of request: (month/day/year)	Local board approval date: (Required)
From: **7/1/2010** To: ~~**6/30/2011**~~ 6/29/2011 ECC 9-15-11	July 26, 2011

LEGAL CRITERIA

1. Authority for the waiver: X Specific code section: EC 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382 Exemption from penalty provision: Application to State Board of Education

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) EC 41376 (a)(c)(d) and EC 41378 (a) through (e) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Waiver of class size penalties for grades K-3. Under the provisions of Education Code Sections 41376 (a), (c) and (d) and 41378 (a) through (e) to avoid class size penalties.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): May 25, 2011

Name of bargaining units and representative(s) consulted: Manteca Educator's Association, Ken Johnson -President

The position(s) of the bargaining unit(s): ___ Neutral X Support ___ Oppose (*Please specify why*)

Comments (if appropriate): The maximum class sizes do not exceed the bargaining unit caps.

5. Advisory committee or school site council that reviewed the waiver. Name: District Advisory Committee for State and Federal Programs

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: 5/28/2011

X Approve ___ Neutral ___ Oppose 6/2/2011
Were there any objection? Yes ___ No X (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

During the 2010/11 school year, the District did not exceed maximum class sizes in grades K-3. However, in the computation of combination classes and District-wide class size averages at the P-2 reporting period for 2010/11, the average class sizes resulted in a penalty. None of the Kindergarten classes exceeded the average class size, but there were a total of 161 "excess enrollment" (students) in the average class size computation in grades 1-3 out of 174 total classes. If this waiver is not approved the District faces a penalty of $1,300,000.00. The District's maximum class size matches the staffing ratios found in the Manteca Unified School District's Collective Bargaining Unit Agreement.
The District faces severe fiscal challenges from persistent State funding reductions. The District is requesting that Education Code Section 41376 (a) (c) and (d) and Ed Code Section 41378 and the associated penalties be waived for the **2010/11** school year. *A new waiver request has already been submitted for the 2011/12 and 2012/13 school years which is awaiting approval.* The staffing cost savings from a temporary increase in average class sizes is crucial as the District attempts to balance budgets.
Manteca Unified School District has worked to enhance and strengthen core academic programs for our students. The District has been forced to make difficult budget decisions while balancing our student's need for strong early grade reading and math programs. Additional funding reductions imposed due to class-size penalties are estimated to be $1,300,000.00 for 2010/11. This loss of revenue would result in further impact to our classrooms resulting in reductions that reach the core academic programs such as reading, mathematics and science. Manteca Unified's goal is to continue our momentum towards increased academic achievement, and it is our hope that additional revenue reductions due to class-size penalties will not occur.

8. Demographic Information:
Manteca Unified School District has a student population of ***23,199*** and is located in a small city in ***San Joaquin*** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? X No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Assistant Superintendent of Personnel	Date:
Signature of SELPA Director (only if a Special Education Waiver) N/A		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	7	3	7	9	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Marcos Unified School District	Brad Lichtman, Asst. Superintendent Human Resources and Development	brad.lichtman@ smusd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 760-752-1242
255 Pico Avenue, Suite 250	San Marcos	CA	92069	Fax number: 760-752-1138

Period of request: (month/day/year)	Local board approval date: (Required)
From: 07/01/2010 To: 06/29/2011	June 13, 2011

LEGAL CRITERIA

1. Authority for the waiver: General Waiver Authority 33050-33053 Specific code section: EC 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.
See Attachment A

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: EC 41376 (a)(c)(d) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Waiver of the class size penalty for exceeding the following parameters: Grades 1-3: Average class size not to exceed 30 students; no class larger than 32 students.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: N/A and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 6/14/11

Name of bargaining units and representative(s) consulted: San Marcos Educators Association , Michael DeVries Association President

The position(s) of the bargaining unit(s): ___ Neutral _X_ Support _ __ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: San Elijo Elementary School (School Site Council has not been consulted because of the end of the school year. The Waiver Request will be brought before them once the Site Council reconvenes in September)

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request:

__X_ Approve ___ Neutral ___ Oppose

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST
SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The San Marcos Unified School District is seeking a temporary increase to class size limitations in grades 1 – 3. California Education Code (EC) section 41376 prescribes the maximum class sizes and penalties for districts with any classes that exceed the limits established in 1964. Grades one through three average class size shall not exceed 30 students, with no class larger than 32 students.

This school year two third grade classes in the district exceeded the class size maximum by one student. This was merely an oversight by the school, and not intended to violate Ed Code or establish precedence. Without submitting a Specific Class Size Waiver to the State Board of Education requesting to waive portions of California Education Code 41376, the District would be subject to a penalty.

The District is requesting a one-year Specific Waiver of class size for grades 1-3 for 2010-2011. The purpose of the waiver is not to permanently increase class size but to address the two classes that exceeded the class size maximum by one. We feel that the District's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the District would otherwise incur without the requested waiver. We currently have a qualified budget and need to make expenditure reductions to remain fiscally solvent.

8. Demographic Information:
(District/school/program) *San Marcos Unified School District* has a student population of _18,517____ and is located in a (*urban, rural, or small city etc.)urban* in _San Diego___ County

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? **X** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*		
Signature of Superintendent or Designee:	Title: Asst. Superintendent	Date: 6/14/11
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A

Item #1 Authority for the Waiver:
EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it **finds** that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	5	0	3	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
South Whittier School District	Dr. Erich Kwek, Superintendent	ekwek@swhittier.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
11200 Telechron Ave.	Whittier	CA	90605	(562) 944-6231 Fax number: (562) 944-9659

Period of request: (month/day/year)	Local board approval date: (Required)
From: July 1, 2011 To: June 29, 2013	August 23, 2011

LEGAL CRITERIA

1. Authority for the waiver: _Education Code__ Specific code section: _41382__
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

Please see attachment.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: 41378 and 41376 (a)(c)(d) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Waiver of Class Size Penalty for grades K-3. The District requests to increase the average to 34:1, with no individual class exceeding 36:1.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: __N/A___ and date of SBE approval _N/A_
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 9, 2011

Name of bargaining units and representative(s) consulted: South Whittier Teachers' Association Roberta Ellis, President and Christina Corrales, Co-President 8/31/11 kak

The position(s) of the bargaining unit(s): _X_ Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): Please see attachment.

5. Advisory committee or school site council that reviewed the waiver. Name: Administrator's Advisory Committee

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: August 11, 2011

_X_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No _X_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   Please see attachment.

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   Please see attachment.

8. Demographic Information:
   South Whittier School District has a student population of about 3,500 students in grades K-8 and is located in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _X_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 1 – Authority for Waiver

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

Item 3 – Comments from Bargaining Unit

"Due to the fiscal issues that the district has and is facing, the board may feel that this waiver is essential to meet 2011-2012 budget. SWTA and its leaders have always taken the position that class size is crucial to an optimum learning environment for all students (K-12). We could never agree to the increase in the number of students in a classroom. Cristina and I do not favor nor support this move. We have agreed to take a neutral position in the class size waiver application."

Item 6 – Education Code section to be waived

Kindergarten:

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Grades 1 -3:
EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Item 7 – Desired Outcome/Rationale
Fiscal Distress

South Whittier School District (District) has been managing a precarious budget situation for the last few years. Starting in April 2009, the District was unable to meet its financial obligations, was identified as "not a going concern," and required the involvement of the Los Angeles County Office of Education (LACOE). In that year, the LACOE appointed a Fiscal Advisor with stay or rescind authority to the District and at the Second Interim reporting period, the District had a negative certification. The District had a negative cash balance and was unable to maintain the state-required reserves in the current and two subsequent fiscal years. On June 30, 2009, in response to the District's fiscal distress, across-the-board reductions were made in salaries and benefits for all District employees in the amount of approximately $4,131,280 including:

- Reductions to all salary schedules by 9%
- A cap on the District's health and welfare benefits premiums contribution for certificated bargaining unit members
- Suspending step requirements and column adjustments

Additionally, large numbers of both certificated and classified personnel have been laid off. A total of nearly $7 million in cuts were made in 2009-10 just to allow the District to meet the payroll obligations to its employees.

The District has had a structural deficit problem, which simply put means that the District's expenditures exceed its revenues. Due to the critical budget reductions the District has implemented over the last two years, the District was certified as Positive during the 2010-11 Second Interim reporting period. This fiscal solvency may be short-lived, however, for a number of reasons.

1. If the District is not successful in obtaining the waiver to increase class sizes in grades K-8, the District will be forced to hire additional teachers for the 2011-12 school year, thereby increasing the expenditures of the District without a change to revenues causing the District to potentially deficit spend, and at the First Interim reporting period, the District's certification status could be downgraded. The District has developed staffing plans based on the higher number of students enrolled, at the levels requested in the waivers requests.

2. At the time of the District's 2011-12 budget adoption on June 28, 2011 (prior to the State Budget enactment), the multiyear projection shows that with flat state funding, the District will only have $33,308 excess unrestricted revenues in 2012-13, and in 2013-14, the District will deficit spend on the unrestricted side of the budget by $374,305. The projected deficit spending in 2013-14 would increase, and the small excess in 2012-13 would be eliminated if the District must hire additional staff.

3. If potential midyear State Budget reductions are triggered as stated in the Budget, the District would face reduction to elementary school districts of approximately $250 per student effective in February 2012. This would equate to a midyear cut of approximately $858,130 (3,432.52 [2010-11 P-2 Regular ADA] times $250). Additionally, the District could stand to lose half of its transportation funding, including that for special education transportation.

The South Whittier Teachers Association's collective bargaining agreement does not place restrictions on class sizes and class loading, therefore there is no need for the District to negotiate increased class sizes with the Association.

Declining Enrollment and Average Daily Attendance

The District's enrollment and average daily attendance (ADA) has been declining steadily for many years. From 2007-08 to 2010-11, the District has lost 547 students in enrollment counts and lost 334.89 in ADA, a loss of today's revenue limit of approximately $1.67 million (334.89 students times $4,994 [District's 2011-12 revenue limit funding per ADA]). This means that the District's revenues decline in each year of ADA decline, which places continuous pressure on the District to reduce expenditures. And, even though the District has implemented a Fiscal Stabilization Plan, huge reductions have been made to the State Budget for education, and the District has had to absorb the loss of revenue beginning in the 2008-09 school year. The flat state funding in the State Budget allocated to school districts for the 2011-12 school year does not help the District make up the lost revenue in the last three years, rather it causes the District to continue program at the same level of 2010-11, while making reductions for the cost increases associated with increased health and welfare benefits, the cost of step and column, and other losses of federal funding. Coupled with declining enrollment, the State Budget cuts to education, which bring the deficit factor to 19.754% in 2011-12—meaning schools get approximately 80 cents for every dollar of funding owed—render a district unable to operate without significant reductions to staffing and program each year.

Overall Impact

The District has continued to maintain its commitment to program and to District staff during this fiscal emergency, however, without the waiver of class-size penalties, the District will either be required to hire back additional staff or pay a heavy penalty for exceeding the class size maximums. This would result in the need for reductions to be levied in the 2011-12 school year and would prevent the District from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specific classes. The District's ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties that the District would incur without the requested waiver.

ITEM #W-6

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Montebello Unified School District**, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Waiver Numbers: 6-8-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three will be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waiver does not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by the district in its waiver application, the State Board of Education (SBE) finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of *Education Code (EC)* sections 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

EC Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, Montebello Unified School District (USD) is requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The district requests to eliminate the penalties related to class sizes in kindergarten through grade three for the 2010-11 fiscal year. The district's overall average in kindergarten was 28.5 and the overall average in grades one through three was 27.7; however, one class in kindergarten was over the individual class size requirement of 33 by one and one class in grades one through three was over the individual class size requirement of 32 by two. In both cases, the district felt it was in the best interest of students not to transfer the students to another school that had smaller classes for purposes of avoiding the penalty. The assessed penalty, which is equal to a loss of funding for 48 students, is in addition to the nearly 20 percent reduction in revenue limit funding that is being applied to districts on account of the statewide budget crisis.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Montebello USD's most recent status is qualified.

Montebello USD states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The penalty without a waiver is $315,056. The Montebello Teacher's union opposes the waiver.

CDE recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should the district exceed this new limit, the class size penalty would be applied per statute.

Demographic Information: See each individual waiver.

Authority for Waiver: *EC* Section 41382

SUMMARY OF KEY ISSUES (continued)

Period of request: See Attachment 1.

Local board approval date(s): See Attachment 1.

Position of bargaining unit(s): See Attachment 1.

Bargaining unit(s) consulted on date(s), name of unit: See Attachment 1.

Advisory committee(s) consulted, Dates and objections: See Attachment 1.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amount for Montebello USD if the waiver is not approved.

ATTACHMENT(S)

Attachment 1: List of Waiver Number(s), District(s), and Information Regarding Each Waiver. (1 page)

Attachment 2: Montebello Unified School District Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 1

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Education Code sections 41376 and 41378: For Kindergarten: Overall average 31; No class larger than 33.
For Grades 1-3: Overall average 30; no class larger than 32

Waiver Number	District	Period of Request	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Bargaining Unit/Representatives Consulted and Dates Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted and Date	Estimated Annual Penalty Without Waiver	Fiscal Status
6-8-2011	Montebello Unified School District	July 1, 2010 through June 30, 2011	No class larger than 34	No class larger than 34	Montebello Teachers' Union, Kathy Schlotz, Executive Director and Diane Garcia-Stevens, President; 7/8/11 **Oppose**	August 4, 2011	PTA Council; 10/4/10 **Oppose**	2010-11 $314,056	Qualified

Prepared by the California Department of Edu

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Montebello Unified School District	Cheryl A. Plotkin Asst Supt. Business Services	Plotkin_cheryl@montebello.k12.ca.us

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
123 S. Montebello Blvd. Montebello CA 90640	323-887-3194 Fax number: 323-887-3177

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/01/2010 To: 6/30/2011	August 4, 2011

LEGAL CRITERIA

1. Authority for the waiver: __X_ Specific code section: _EC41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

EC 41382 Exemption from penalty provision: Application to State Board of Education

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) EC 41376(a), (c) and (d) and 41378 (a) through (e) Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: Waiver of class size penalties for grades K-3. Under the provisions of Ed. Code sections 41376 (a), (c) and (d) and 41378 (a) through (e) to avoid class size penalties.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _x Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): ~~October 4, 2010~~ July 8, 2011 ECC 9-15-11

Name of bargaining units and representative(s) consulted: Montebello Teachers Union-Kathy Schlotz, Executive Director and Diane Garcia-Stevens, President.

The position(s) of the bargaining unit(s): ___ Neutral ___ Support __X_ Oppose (*Please specify why*)

Comments (if appropriate): The Montebello Teachers Association opposes this wavier to increase class size for the following reasons: California's K-3 Class Size Reduction has proven to be successful. Smaller classes mean students are getting more valuable one-on one attention-leading to higher academic performance. Research has proven smaller classes improve academic achievement especially in ethnic minority and low income students. Increasing class size will not help narrow the achievement gap but simply be unfair to those students most in need. Our standards are the highest in the country. Boosting class size will make it more difficult to achieve those standards.

5. Advisory committee or school site council that reviewed the waiver. Name: PTA Council representing parents from all school sites.

   Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request. Date advisory committee/council reviewed request: 10/21/2010

   ___ Approve ___ Neutral __X_ Oppose

   Were there any objection? Yes _X__ No ___ (If there were objections please specify) Not in favor because it cheats the students of teaching time and it is unfair to the teachers. Overloaded classes can cause problems with students' self-esteem because they would not have the attention from the teachers to help them overcome learning problems. Larger classes cause more distraction and makes learning difficult.

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

See attached

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   Montebello Unified has been functioning under a Solvency Plan that was required by the County of Los Angeles. We staffed the District at a ratio of 29.7 to 1. The District has received a waiver as part its' Solvency Plan for 2011-12 and 2012-13. However in 2010-11 some sites had more students than expected. In order to maintain our solvency plan and to not disrupt students by transfer them to another school some of our classes were over the 29.9 to 1.

Continued on attached

8. Demographic Information:
   Montebello Unified School District has a student population of 31,900 and is located in a urban area in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _X No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: Cheryl A. Plotkin	Title: Assistant Superintendent Business Services	Date: 8/5/11
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment Specific Waiver Request Montebello Unified School District

Question 6.

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Attachment Specific Waiver- Montebello Unified School District
Question 7 continued:

34	individual class size	ECC 9-15-11

We are submitting this request for a waiver to increase the district-wide student ~~average~~ in grades K through ~~3 from 29.9~~ to NTE 33 students per teacher for 2010-11. This request excludes the QEIA schools which will be maintained at the required averages. To not file this waiver at this time, could result in a costly penalty being imposed upon the district of $309,000. This additional loss of revenue would result in a further decline to our classrooms resulting in reductions that reach to the core academic programs such as reading, mathematics and science. The Montebello Unified School Districts goal is to continue our academic improvements and provide our students with a quality education in the midst of this fiscal crisis. It is our hope that further reductions through penalties will not occur and our waiver will be fully considered by this Board.

ITEM #W-7

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average. Waiver Numbers: Lemon Grove 10-7-2011 South Whittier Elementary 18-8-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9.

The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since fiscal year 2008-09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over

SUMMARY OF KEY ISSUES (Cont.)

one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when a district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude a district from increasing class sizes above certain maximums. Therefore, by denying the waiver, the SBE does not ensure that the districts will not raise their class size averages. Rather, the SBE would ensure that the districts will have to absorb additional funding cuts if the SBE choose to do so.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

ATTACHMENT(S) (Cont.)

Attachment 2: Lemon Grove School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: South Whittier Elementary School District General Waiver Request (6 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 1

Districts Requesting Grades 4-8 Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Bargaining Unit/Representatives Consulted and Dates Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted and Date	Estimated Annual Penalty Without Waiver	Fiscal Status
10-7-2011	Lemon Grove School District	July 1, 2011 to June 29, 2013	29.9	35	35	Lemon Grove Teachers' Association; Pierre Finney, President, 7/8/11; **Neutral**	July 1, 2011	District English Learner Advisory Committee 7/8/11 **Oppose**	$1,637,093 each year	Positive
18-8-2011	South Whittier Elementary School District	July 1, 2011 to June 29, 2013	29.9	34	34	South Whittier Teachers' Association, Roberta Ellis, President and Christina Corrales, Co-President; 8/9/2011; **Neutral**	August 23, 2011	De	$1,274,912 each year	Positive

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	2	0	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
LEMON GROVE SCHOOL DISTRICT	**GINA POTTER** **Asst. Superintendent Business**	gpotter@lgsd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
8025 LINCOLN STREET	**LEMON GROVE**	**CA**	**91945**	**619) 825-5608** Fax Number: (**619) 825-5608**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To**: June 29, 2013**	July 12, 2011	July 12, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

Topic of the waiver: **Waiver of class size penalty for exceeding statewide average (29.9) number of pupils per teacher in Grades 4-8.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): CSEA on __July 8, 2011_____ LGTA on ___July 8, 2011_____

Name of bargaining unit and representative(s) consulted:
California School Employees Association: Denise Crano, President
Lemon Grove Teachers Association: Pierre Finney, President

The position(s) of the bargaining unit(s**): _X California School Employees Association *and* Lemon Grove Teachers Association Neutral** __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Posted at two school sites open during the summer (Palm Middle School and San Altos School), the Facilities and Maintenance Department, the Nutrition Services Department, the District Office, and the Lemon Grove Library.

___ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
_**District English Learner Advisory Committee**

Date the committee/council reviewed the waiver request: ___July 8, 2011____

Were there any objection(s)? No ___ Yes _X_ ***(If there were objections please specify)*** **"I understand the financial need the district is in and why the request is necessary however, as a parent signing for the District English Learner Advisory Committee, please mark that I reviewed but oppose the waiver." Roy O. McClish, District English Learner Advisory Committee Chair**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

EC 41376 (b) For grades 4-8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess, if any, of pupils enrolled in such grades in the following manner:
(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, ~~as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full time equivalent classroom teacher which existed in the district on either October 30, 1964, as selected by the governing board.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District requests a waiver to temporarily increase class size in grades 4-8 in order to reduce expenditures. The District faces severe fiscal challenges from a decade of declining enrollment, a lower than average revenue limit and persistent State funding reductions. The District has done everything possible to maintain reasonable class sizes but due to the lack of funding, we are forced to increase class size to avoid more demoralizing program cuts and staff lay-offs. The staffing cost savings from a temporary increase in class sizes is crucial to remain solvent.

8. Demographic Information:
(District/school/program) Lemon Grove School District has a student population of __3,792__ and is located in a *small city* of Lemon Grove in San Diego County.

8 Sites: Lemon Grove Middle School, Palm Middle School, Golden Avenue Elementary, Vista La Mesa Academy, Monterey Heights Elementary, San Miguel Elementary, San Altos Elementary, and Mount Vernon Elementary.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No: X Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No: X Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **SUPERINTENDENT**	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	5	0	3	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
South Whittier School District	Dr. Erich Kwek, Superintendent	ekwek@swhittier.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
11200 Telechron Ave.	Whittier	CA	90605	(562) 944-6231 Fax Number: (562) 944-9659

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2011 To: 6/29/13	August 23, 2011	August 23, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: (*EC*) or *CCR*

Topic of the waiver: Waiver of Class Size Penalty for exceeding the 1964 district average (29.5) and/or statewide average (29.9) number of pupils per teacher in Grades 4-8. The District requests to increase the average to 34:1.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A_ and date of SBE Approval _N/A_
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 9, 2011

Name of bargaining unit and representative(s) consulted: South Whittier Teachers' Association Roberta Ellis and Christina Corrales, Co-President President kak 8/31/2011

The position(s) of the bargaining unit(s): _X_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate): Please see attachment.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Whittier Daily News August 19, 2011

_X__ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Administrator's Advisory Committee

Date the committee/council reviewed the waiver request: August 11, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   Please see attachment.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   Please see attachment.

8. Demographic Information:
   South Whittier School District has a student population of about 3,500 students in grades K-8 and is located in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 6 – Education Code to be Waived

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of~~

~~pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Item 3 – Comments from Bargaining Unit

"Due to the fiscal issues that the district has and is facing, the board may feel that this waiver is essential to meet 2011-2012 budget. SWTA and its leaders have always taken the position that class size is crucial to an optimum learning environment for all students (K-12). We could never agree to the increase in the number of students in a classroom. Cristina and I do not favor nor support this move. We have agreed to take a neutral position in the class size waiver application."

Item 7 – Desired outcome/rationale

Fiscal Distress

South Whittier School District (District) has been managing a precarious budget situation for the last few years. Starting in April 2009, the District was unable to meet its financial obligations, was identified as "not a going concern," and required the involvement of the Los Angeles County Office of Education (LACOE). In that year, the LACOE appointed a Fiscal Advisor with stay or rescind authority to the District and at the Second Interim reporting period, the District had a negative certification. The District had a negative cash balance and was unable to maintain the state-required reserves in the current and two subsequent fiscal years. On June 30, 2009, in response to the District's fiscal distress, across-the-board reductions were made in salaries and benefits for all District employees in the amount of approximately $4,131,280 including:

- Reductions to all salary schedules by 9%
- A cap on the District's health and welfare benefits premiums contribution for certificated bargaining unit members
- Suspending step requirements and column adjustments

Additionally, large numbers of both certificated and classified personnel have been laid off. A total of nearly $7 million in cuts were made in 2009-10 just to allow the District to meet the payroll obligations to its employees.

The District has had a structural deficit problem, which simply put means that the District's expenditures exceed its revenues. Due to the critical budget reductions the District has implemented over the last two years, the District was certified as Positive during the 2010-11 Second Interim reporting period. This fiscal solvency may be short-lived, however, for a number of reasons.

1. If the District is not successful in obtaining the waiver to increase class sizes in grades K-8, the District will be forced to hire additional teachers for the 2011-12 school year, thereby increasing the expenditures of the District without a change to revenues causing the District to potentially deficit spend, and at the First Interim reporting period, the District's certification status could be downgraded. The District has developed staffing plans based on the higher number of students enrolled, at the levels requested in the waivers requests.

2. At the time of the District's 2011-12 budget adoption on June 28, 2011 (prior to the State Budget enactment), the multiyear projection shows that with flat state funding, the District will only have $33,308 excess unrestricted revenues in 2012-13, and in 2013-14, the District will deficit spend on the unrestricted side of the budget by $374,305. The projected deficit spending in 2013-14 would increase, and the small excess in 2012-13 would be eliminated if the District must hire additional staff.

3. If potential midyear State Budget reductions are triggered as stated in the Budget, the District would face reduction to elementary school districts of approximately $250 per student effective in February 2012. This would equate to a midyear cut of approximately $858,130 (3,432.52 [2010-11 P-2 Regular ADA] times $250). Additionally, the District could stand to lose half of its transportation funding, including that for special education transportation.

The South Whittier Teachers Association's collective bargaining agreement does not place restrictions on class sizes and class loading, therefore there is no need for the District to negotiate increased class sizes with the Association.

Declining Enrollment and Average Daily Attendance

The District's enrollment and average daily attendance (ADA) has been declining steadily for many years. From 2007-08 to 2010-11, the District has lost 547 students in enrollment counts and lost 334.89 in ADA, a loss of today's revenue limit of approximately $1.67 million (334.89 students times $4,994 [District's 2011-12 revenue limit funding per ADA]). This means that the District's revenues decline in each year of ADA decline, which places continuous pressure on the District to reduce expenditures. And, even though the District has implemented a Fiscal Stabilization Plan, huge reductions have been made to the State Budget for education, and the District has had to absorb the loss of revenue beginning in the 2008-09 school year. The flat state funding in the State Budget allocated to school districts for the 2011-12 school year does not help the District make up the lost revenue in the last three years, rather it causes the District to continue program at the same level of 2010-11, while making reductions for the cost increases associated with increased health and welfare benefits, the cost of step and column, and other losses of federal funding. Coupled with declining enrollment, the State Budget cuts to education, which bring the deficit factor to 19.754% in 2011-12—meaning schools get approximately 80 cents for every dollar of funding owed—render a district unable to operate without significant reductions to staffing and program each year.

Overall Impact

The District has continued to maintain its commitment to program and to District staff during this fiscal emergency, however, without the waiver of class-size penalties, the District will either be required to hire back additional staff or pay a heavy penalty for exceeding the class size maximums. This would result in the need for reductions to be levied in the 2011-12 school year and would prevent the District from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specific classes. The District's ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties that the District would incur without the requested waiver.

ITEM #W-8

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by three districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average. Waiver Numbers: Banning Unified 2-6-2011 Center Joint Unified 46-6-2011 Inglewood Unified 45-6-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

Under *EC* 33052(a), if no action is taken by the SBE on a waiver request by the second regular meeting, the waiver will be deemed approved for one year and there will be no conditions on such approvals; thus, these districts could raise class size averages to any level without penalty.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999. The SBE held over these three districts' class size penalty waivers from the September 2011 meeting. If the SBE fails to take action on this waiver request for two consecutive meetings, the requests are deemed approved for one year pursuant to *EC* Section 33052, and there will be no conditions on such approvals; thus, these districts could raise class size averages to any level without penalty.

SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9.

The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since fiscal year 2008-09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next fiscal year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures. The statutes being waived do not preclude a district from increasing class sizes above certain maximums. Therefore, by denying the waiver, the SBE does not ensure that the districts will not raise their class size averages. Rather, the SBE would ensure that the districts will have to absorb additional funding cuts if they choose to do so.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school

SUMMARY OF KEY ISSUES (Cont.)

personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Banning Unified School District General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Center Joint Unified School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Inglewood Unified School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Districts Requesting Grades 4-8 Class Size Penalty Waivers

Waiver Number	District	Period of Request	1964 Class Size Average (Current Maximum)	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Bargaining Unit/Representatives Consulted and Dates Position	Local Board and Public Hearing Approval Date	Advisory Committee(s) Consulted and Date	Estimated Annual Penalty Without Waiver	Fiscal Status
2-6-2011	Banning Unified School District	July 1, 2011 to June 30, 2012	29.9	34	34	Banning Teachers' Association, Yvonne Lanthrip, President; 5/11/11; **Oppose**	May 19, 2011	District English Language Acquistion Committee 6/15/11	$1,693,324	Qualified
46-6-2011	Center Joint Unified School District	July 1, 2011 to June 30, 2012	29.9	34	34	Center Unified Teachers' Association, Heather Woods, President; 5/17/11; **Oppose**	May 18, 2011	Parent-Teacher Councils 4/11/11, 4/12/11, and 4/14/11	$1,326,730	Qualified
45-6-2011	Inglewood Unified School District	July 1, 2011 to June 30, 2012	31.5	36 (Originally requested 38)	36	Inglewood Teachers' Association, Peter Somberg, President; 6/2/11; **Oppose**	June 8, 2011	Painters and Allied Trades District Cal Pro Local Union #2345 6/3/11 **Oppose**	$3,893,491	Negative

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	6	9	8	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Banning Unified School District	**Gordon Fisher, Assistant Superintendent**	**gfisher@banning.k12.ca.us**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
161 West Williams Street	**Banning**	**CA**	**92220**	(951) 922-0207 Fax Number: (951) 922-0298

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	**5/19/11**	**5/19/11**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): EC 41376 (b) and (e) Circle One: ***EC*** or *CCR*

   Topic of the waiver: **Class Size Penalty Grades 4-8.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **5/11/11**

   Name of bargaining unit and representative(s) consulted: Banning Teachers Association, Yvonne Lanthripp, President
   kak 6/12/2011

   The position(s) of the bargaining unit(s): __ Neutral __ Support **X** Oppose (*Please specify why*)

   Comments (if appropriate): **BTA opposes increasing the class size because small class sizes are a critical factor in student achievement.**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper **X** Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   DELAC – District English Language Acquisition Committee kak 6/15/2011
   Date the committee/council reviewed the waiver request: 6/15/2011 per G. Fisher

   Were there any objection(s)? No __x_ Yes ___ (*If there were objections please specify)*
   EEC 7/19/11

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See the attached EC 41367 with strike-outs through sections (b) and (e).

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District requests a waiver to increase the district-wide average number of pupils per each FTE (Full Time Equivalent) from the current 29.9 per FTE ~~to thirty-six (36)~~ thirty four (34) (per GF @ district) per FTE in grades 4-8, inclusive. The reason for this waiver is the budget restraints the District is facing due to the state budget crisis. The District has maintained class sizes at less than 30 per FTE during the downturn of the economy. However, with the new budget forecasts, there is a likelihood that the number of FTE's will have to be reduced, which will force a greater number of students per FTE.

8. Demographic Information:
(*District/school/program)*__ has a student population of **4,433** and is located in a __**small city** (*urban, rural, or small city etc.)*__ in **Riverside** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

6.

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

(b) ~~For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision

(a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

6. Continued

(e) ~~If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:~~
~~He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X___
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	4	7	3	9	7	3

Local educational agency: Center Joint Unified School District	Contact name and Title: George Tigner Chief Administrative Officer	Contact person's e-mail address: gtigner@centerusd.org
Address: (City) (State) (ZIP) 8408 Watt Avenue, Antelope CA 95843		Phone (and extension, if necessary): (916) 338-6413 Fax Number: (916) 338-6322
Period of request: (month/day/year) 7-1-2011 6-30-2012 From: ~~08/01/2011~~ To: ~~05/31/2012~~	Local board approval date: (Required) May 18, 2011	Date of public hearing: (Required) May 18, 2011

ECC 7/19/11 LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 Circle One: (*EC*) or *CCR*

Topic of the waiver: Class Size, Grades 4 -- 8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: __N/A___ and date of SBE Approval__N/A___
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): May 17, 2011

Name of bargaining unit and representative(s) consulted: Center Unified Teachers Association, Heather Woods , President kak 7/6/11 per G. Tigner

The position(s) of the bargaining unit(s): __ Neutral __ Support __X Oppose (*Please specify why*)

Comments (if appropriate): Union, while understanding financial situation of the district, supports smaller class sizes at all

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Parent-Teacher Councils at all elementaries (Dudley, North Country, Oak Hill, Spinelli) in the district.

Date the committee/council reviewed the waiver request: April 11, April 12, April 14 (2011)

Were there any objection(s)? No X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 41376 (b) and (e) (Text attached)

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Center Joint Unified School District has presented a "qualified" budget to Sacramento County, the result of declining enrollment and decreased state revenues. The best-case scenario for CJUSD for school year 2011-2012 shows a budget shortfall of $2.9 million. Even after concessions from both certificated and classified employee groups (in the form of furlough days) and the reduction of the school year by 5 days, the District will suffer financial hardship unless this waiver is granted. The District intends tol continue to provide high-quality instruction in the core areas to students at all grade levels, but the financial penalty incurred if a waiver is not granted may preclude the District from doing so. The District's Collective Bargaining Agreement article on Class Size, which has been waived by the union, limits class size in Grades 4-5 to 32 and Grades 6 --8 to 34.

8. Demographic Information:
Center Joint Unified School District has a student population of _4793__ and is located in an urban area in Sacramento County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Chief Administrative Officer	Date: June 27, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

#6

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X____
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	6	3	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Inglewood Unified School District	Monalisa Hasson, Ed.D. Asst. Superintendent, Human Resources	mhasson@inglewood.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
401 S. Inglewood Avenue	Inglewood	CA	90301	(310) 419-2791 Fax Number: (310) 680-4811

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2011 To: 6/29/2012	6/8/2011	6/8/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) (e) Circle One: (*EC*) or *CCR*
Topic of the waiver: **To Waive the Class Size Penalty (Grades 4-8)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Union #1 – Teachers Union
Bargaining unit(s) consulted on date(s): June 2, 2011
Name of bargaining unit and representative(s) consulted:
Inglewood Teachers' Association (ITA) President: Peter Somberg

The position(s) of the bargaining unit(s): __ Neutral __ Support _**X**_ Oppose (*Please specify why*)

The ITA President made the following statement, "ITA opposes the waiver of class size maximums in grades 4-8. We too have concerns about increased class sizes having a detrimental effect on student achievement. We further see limitations in the ability to practice differentiated instruction when classes reach these proposed numbers."

As per the existing Collective Bargaining Agreement with Inglewood Teacher Association, the class size maximum is as follows:

K-3	32
4-6	33
7-12	34

Union #2 – Classified Employees Union
Bargaining unit(s) consulted on date(s): June 3, 2011

Name of bargaining unit and representative(s) consulted: **Painters and Allied Trades District on behalf of Cal Pro Local Union #2345; Business Representative: Chris Graeber**

The position(s) of the bargaining unit(s): _**X**_ Neutral __ Support ___ Oppose (*Please specify why*)

4. Public hearing requirement: How was the required public hearing advertised?

_X_ Notice in a newspaper _X_ Notice posted at each school _X_ Other:

A notice was posted at all district locations as well as on the district website.
A Connect-ED message which sends a telephonic recorded message to every household in the District and to every employee was also used as a means to inform all stakeholders of the public hearing.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

A District advisory committee comprised of school site council members, as well as other stakeholders, was held to provide an opportunity for the review of the waiver request and to seek input.

Date the committee/council reviewed the waiver request: June 2, 2011

Were there any objection(s)? No ___ Yes _X__ (*If there were objections please specify)*

Parents expressed concerns in regards to possible lower student achievement as a result of the proposed increased class size. Parents were not confident in the ability to meet the diverse learning needs of the students with more students in each classroom. There was an additional recommendation made by a parent to establish a new grading system. Another parent voiced that the proposed waiver is not currently aligned to the existing teacher contract and passage of this waiver would not benefit students. There was also support expressed for the waiver from some committee members.

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Inglewood Unified School District is facing severe budget challenges as it continues to serve its students with significantly reduced revenue. The fiscal experts and the FCMAT team assigned to the District forecast a deficit of over $32 million for the 2011-12 school year. The District has exhausted all reduction options available including reductions in the workforce, waivers on State funding deferrals, implementation of a furlough program, and reductions in ongoing expenditures in all areas to reduce this deficit.

Over 85% of the District's budget is comprised of salary and benefits. If the waiver on the class size penalty is approved, the District will be able to reduce staffing expenditures which will move the District toward its goal of fiscal solvency while maintaining its instructional programs.

Inglewood Unified has exhausted all reduction options available and increasing class size is one of the remaining options it has to reduce expenditures and retain its programs. The proposed increase in class size will result in a savings of approximately $10,824,440.00 in salaries and benefits.

If the waiver is not approved, a significant penalty based on California Education Code section 41378 in an approximate amount of $5.2 million will be imposed.

8. Demographic Information:
Inglewood Unified School District has a student population of 12,410 and is located in an urban city in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature On Original Monalisa Hasson, Ed.D	Title: Assistant Superintendent, Human Resources	Date: June 3, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ITEM #W-9

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by six districts, under the authority of California *Education Code* Section 33050, to waive portions of *Education Code* sections 48660 and 48916.1(d) relating to the allowable grade spans for community day schools and/or *Education Code* Section 48661 relating to the colocation of a community day school with other types of schools. Waiver Numbers: Big Valley Joint Unified11-7-2011 Chaffey Joint Union 13-8-2011 Chawanakee Unified 20-9-2011 Corcoran Joint Unified14-7-2011 Lakeport Unified 13-7-2011 Lucerne Valley Unified 4-8-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval that the grade span limitations for these community day schools (CDS) be waived subject to the conditions stated in the findings below, and that the CDSs be allowed to operate on the same site as other schools as specifically requested. In the case of Big Valley Joint Unified, CDE is recommending a permanent waiver due to the small size of the district. The remaining five districts are not recommended for permanent waivers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved previous waiver requests to expand the allowable grade span for a CDS when it was not feasible for the district to operate two separate schools. The SBE has also approved several similar requests in the past to allow the collocation of a CDS with another school when the CDS could not be located separately and the district has been able to provide for the separation of students from the other schools.

SUMMARY OF KEY ISSUES

The *EC* sections 48660 and 48916.1(d) provide, respectively, for the allowable grade spans of CDSs and educational services for expelled students. The *EC* Section 48916.1(a) requires school districts to ensure that each of their expelled students be provided an educational program during the period of expulsion. The *EC* Section

SUMMARY OF KEY ISSUES (Cont.)

48661(a) states that a CDS shall not be situated on the same site as a comprehensive elementary, middle or high school, continuation high school, or an opportunity school.

Given the extremely challenging fiscal environment presently facing all California schools, some districts are finding that they do not anticipate having sufficient enrollment to make it fiscally feasible to operate two CDSs, one for students up to grade six, and a second for grades seven and above. At the same time, they recognize their responsibility to ensure that educational placements are available for expelled and other high risk students. In some cases, two existing schools are collapsed into one. In other cases, the grade span of an existing school is expanded to include students who might previously have been served by another neighboring district.

Additionally, for very small districts it is difficult to predict when and if a student in any specific grade level will need to be served in a CDS. At no time does it expect more than a small number of students to be enrolled. This means that at any given time, all of the students might be in elementary grades, middle grades, or any combination of these grades—just as at any time it is equally possible that no student in any one of these grade spans might be enrolled.

In order to ensure that students receive adequate academic support despite the wider span of grades in the school, districts have committed to provide grade level appropriate mentor teacher support to CDS teachers who are teaching beyond their normal grade spans.

Current financial difficulties may preclude a district from locating its CDS at a fully separate site. When collocation with another school is deemed necessary, sites are selected as providing the greatest possible separation from traditional school classrooms and students. The *EC* Section 48661(a)(1) authorizes a small school district with 2,500 or fewer students to waive the separation requirement based on an annual certification by at least two-thirds of the local board that separate alternative facilities are not available. These waivers, if approved, would allow larger districts the same local determination option as a smaller district. Separation of the students on a shared campus is then achieved through combinations of physical barriers, scheduling of arrival, departure, and break times, and use of campus monitors.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of Waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page)

Attachment 2: Big Valley Joint Unified School District General Waiver Request Package (3 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

ATTACHMENT(S)

Attachment 3: Chaffey Joint Union High School District General Waiver Request Package (6 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Chawanakee Unified School District General Waiver Request Package (4 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Corcoran Joint Union High School District General Waiver Request (4 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 6: Lakeport Unified School District General Waiver Request (3 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 7: Lucerne Valley Unified School District General Waiver Request (2 pages) (Original Waiver request is signed and on file in the SBE Office or the Waiver Office.)

California Department of Education

Community Day School State Board of Education Waivers for November 2011

Waiver Number	District Name, Approval Date and Size of District	Grade Span Requested (if waiver of *EC* sections 48660 and 48916.1(d))	Type(s) of School(s) with which Community Day School will be Colocated (if waiver of *EC* Section 48661(a))	Period of Request	Renewal Waiver?	If granted this waiver will be "permanent" per *EC* Section 33501(b)	Certificated Bargaining Unit Name and Representative, Position and Date of Action	Advisory Committee/School Site Council Name, Date of Review and any Objections
11-7-2011	Big Valley Joint Unified School District 225 Total Students June 27, 2011	Grades 3-12; maximum class size of 6; fiscally unable to support 2 small schools; no other Community Day School (CDS) within 50 miles		July 1, 2011 through June 30, 2012	YES No negative interactions in past year	YES	California Teachers Association (Abe Hathaway) and California School Employees Association (Vicki Jeppson) Support June 1, 2011	Big Valley School Site Council June 2, 2011 No objections
13-8-2011	Chaffey Joint Union High School District 25,415 Total Students August 16, 2011		Independent Studies Complex	August 2, 2011 through June 30, 2013	YES No negative interactions in past year	NO	Associated Chaffey Teachers (Janet Thornhill) Support May 23, 2011	District Budget Committee (certificated, classified, administrative, parents and community members) March 17, 2011 No objections
20-9-2011	Chawanakee Unified School District 1,046 Total Students September 13, 2011	Grades 5-12; maximum class size of 6; fiscally unable to continue to support 2 small schools; no other CDS within 45 miles		August 1, 2011 through June 30, 2012	YES No negative interactions in past year	NO	Chawanakee Teachers Association (Ryan Hansen) Support September 9, 2011	Community Day School Advisory Committee September 7, 2011 No objections
14-7-2011	Corcoran Joint Unified School District 3,300 Total Students August 9, 2011	Grades 6-12; fiscally unable to support 2 small schools; no other CDS within 20 miles	Continuation High School	July 2, 2011 through June 30, 2013	YES No negative interactions in past year	NO	California Teachers Association (Wendi Hulbert) and California School Employees Association (Ray Gamez) Support June 17, 2011	School Site Advisory Council June 17, 2011 No objections
13-7-2011	Lakeport Unifed School District 1,500 Total Students July 14, 2011	Grades 6-9; maximum class size of 10; fiscally unable to support 2 small schools		August 1, 2011 through August 1, 2012	NO	NO	Lakeport Unified Teachers' Association (Pam Klier) and Lakeport Unified Classified Employees' Association (Doreen McGuire-Grigg) Support July 8, 2011	Terrace School Site Council and Clear Lake High School Site Council July 8, 2011 No objections
4-8-2011	Lucerne Valley Unified School District 920 Total Students July 13, 2011	Grades 3-12; maximum class size of 10; fiscally unable to support 2 small schools		July 2, 2011 through June 30, 2013	YES No negative interactions in past year	NO	Lucerne Valley Teachers Association (Chris Pennington) and California School Employees Association (Karol Thompson) Support May 31, 2011	Lucerne Valley Elementary School Site Council September 14, 2011 No objections

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						

Local educational agency: Big Valley Joint Unified School District	Contact name and Title: L.F. Robins, Ed.D. Superintendent/Principal	Contact person's e-mail address: lrobins@ bigvalleyschool.org
Address: (City) (State) (ZIP) 320 Bridge St. Bieber Calif. 96009		Phone (and extension, if necessary): (530) 294-5267 Fax Number: (530) 294-5396
Period of request: (month/day/year) From: 7/1/11 To: 6/30/12	Local board approval date: (Required) June 27, 2011 unanimous	Date of public hearing: (Required) June 27, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***(EC)*** or *CCR*

d DS 9/13/111
Topic of the waiver: 48660, 48916.1~~b~~ Community Day Schools

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _20-8-2010-W-8 and date of SBE Approval 11/10/10 DS 9/13/11
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): California Teacher's Assoc., California School Employees Assoc. June 1, 2011
Per Larry Robins 9/13/11 DS
Name of bargaining unit and representative(s) consulted: Abe Hathaway(President, CTA), Vicki Jeppson (President,CSEA)

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate): per Leslie Corder 7/28/11 jb

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Big Valley School Site Council, June 2, 2011
Per e-mail from Larry Robins 8/8/11 jb
Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
See Attached

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

We are a very small rural district. We anticipate at no time that we will have more than 6 students in our Community Day School with 1-2 being of High School age that require a Community Day School setting. Especially in this fiscal situation we cannot provide two schools for these students. Therefore we are requesting the waiver to broaden the grade span to 3rd grade with students up to 12th grade. There are no other CDS schools within a 50 mile radius we could use to take a upper or lower grade student.

No negative interactions - Leslie Corder 8/29/11

8. Demographic Information:
Big Valley Joint Unified has a student population of ___225_____ and is located in a rural and isolated community__ in Lassen County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent/Principal	Date: June 20, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades ~~1 to 6, inclusive, or any of grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

48916.1. ~~**(d)** If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:
Renewal Waiver: _x__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	6	7	6	5	2

Local educational agency: Chaffey Joint Union High School District	Contact name and Title: William R. Bertrand Deputy superintendent		Contact person's e-mail address:bill_bertrand@cjuhsd.net
Address: (City) (State) (ZIP) 211 West Fifth Street Ontario CA. 91762			Phone (and extension, if necessary (909) 988-8511 ext. 2818 Fax Number: (909) 391-5262
Period of request: (month/day/year) August 2, 2011 June 30, 2013 From: ~~July 1, 2011~~ To: ~~July 30, 2012~~	Local board approval date: (Required) August 16, 2011		Date of public hearing: (Required) August 16, 2011

Jb 9/21/11LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: (*EC*) or *CCR*

Topic of the waiver: Location of District Community Day School

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 7-9-2010-W-6 and date of SBE Approval November 10, 2010
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): May 23, 2011

8/31/11 kak

Name of bargaining unit and representative(s) consulted: Janet Thornhill, Associated Chaffey Teachers, President

The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? In the local Newspaper, The Inland Valley Daily Bulletin – July 25 & 26, 2011

_x__ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: District budget Committee consisting of Certificated, Classified, administrative, parents and community members.

Date the committee/council reviewed the waiver request: March 17, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48661. (a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:
When the governing board of a school district ~~with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment~~ certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Budget reductions caused the relocation of district schools and programs. Included among these changes is the Community Day School. In planning the relocation of CDS several factors were considered: safety, centralized district location, space, modern classrooms and immediate administrative and counseling support services.
In every respect, the new CDS location is superior to the previous location. The new facility devotes two full size classrooms, with one serving as a computer lab. Our maximum enrollment is 22 students so crowded conditions will never occur. Additionally, the outdoor space which includes a covered lunch area is larger than the previous location provided.

The address of the District Community Day School is 1802 East 7th Street. Ontario CA., 91764

8. Demographic Information: Chaffey Joint Union High School District has a student population of 25,415 and is located in an urban area in San Bernardino County.

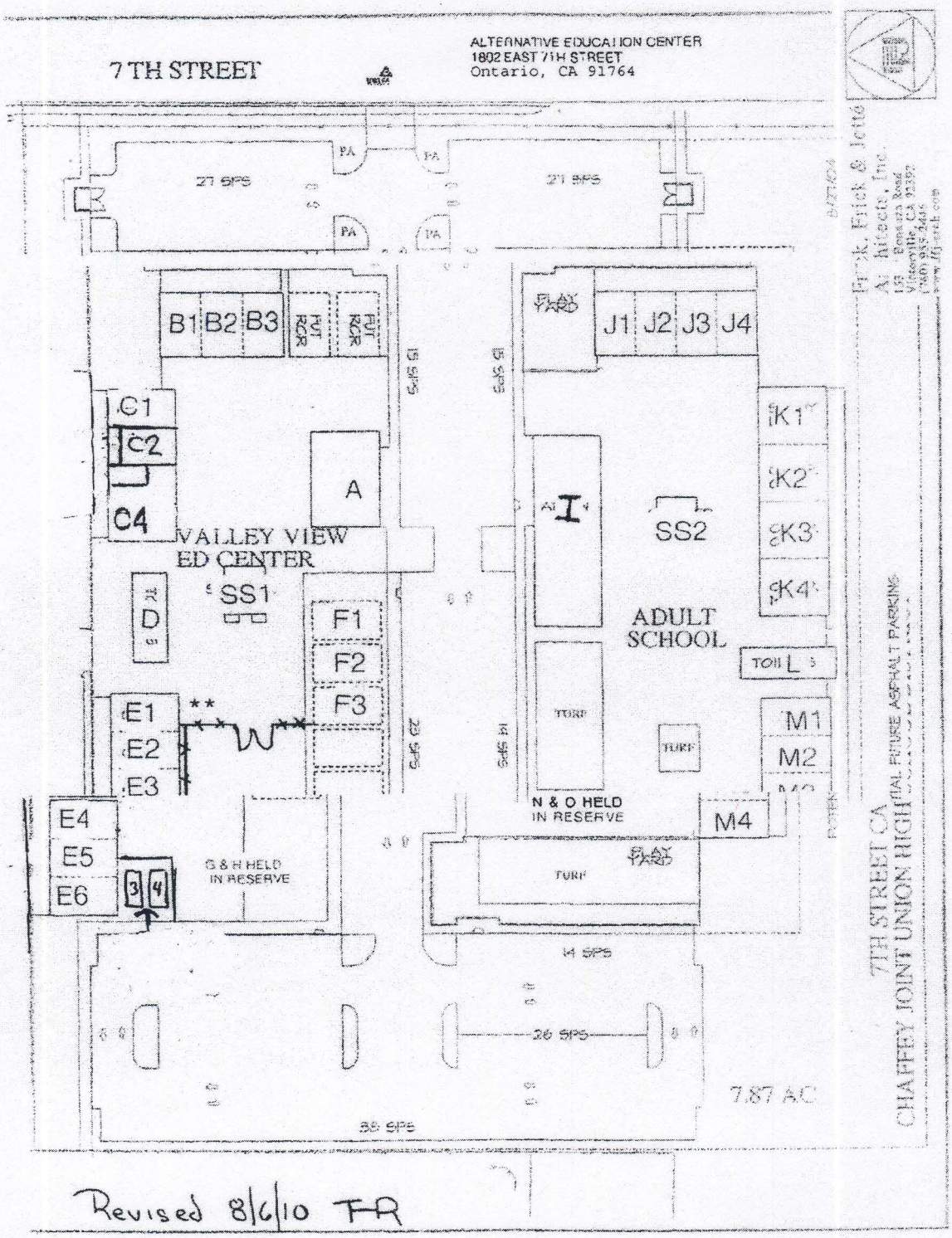
Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: *William R. Bertrand*	Title: Deputy Superintendent	Date: August 16, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CHAFFEY JOINT UNION HIGH SCHOOL DISTRICT – RENEWAL WAIVER FOR COMMUNITY DAY SCHOOL ORIGINAL MAP DRAWN BY FRICK, FRICK & JETTE (ARCHITECTS) – REVISION BY RICHARD THOMPSON, Chaffey Dist. Employee, Project Manager



Revised 8/6/10 TR

C1 & C2 -- OFFICES

C4 -- STORE ROOM

E5 & E6 -- COMMUNITY DAY SCHOOL (CLASSROOMS)

3 & 4 ARE OUTSIDE COVERED AREAS FOR STUDENTS

**FENCED AREA

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	1	1	3	9	4	8

Local educational agency: Chawanakee Unified School District	Contact name and Title: Gary Talley	Contact person's e-mail address: gtalley@mychawanakee.org
Address: (City) (State) (ZIP) P.O. 400 North Fork CA 93643		Phone (and extension, if necessary): 559-877-6209 ext 215 Fax Number: 559-877-4430
Period of request: (month/day/year) From: 08/01/2011 To: 06/30/2012	Local board approval date: (Required) September 13, 2011	Date of public hearing: (Required) September 13, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **48660 & 48916.1** Circle One: ***EC*** or *CCR*

Topic of the waiver: **The governing board is requesting the state board of education to waive the inclusive grade levels stated in EC 48660 and EC 48916.1. The governing board is requesting Manzanita CDS be allowed to operate as a 5 to 12 grade program.**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 13-9-2010-W-9 and date of SBE Approval_11/10/2010_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**X**_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **September 9, 2011**

Name of bargaining unit and representative(s) consulted: **Teacher's Union/ Ryan Hansen**

The position(s) of the bargaining unit(s): __ Neutral _ **X**_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _**X**__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Day School Advisory Committee

Date the committee/council reviewed the waiver request: **September 7, 2011**

Were there any objection(s)? No _**X**__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 ~~to 6, inclusive, or any of grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

48916.1. (d~~) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Board's rationale for this waiver is to be able to utilize the Community Day School in a wider grade span. Due to economic issue that state is in, it is necessary to combine multiple grade levels into one CDS. The district's CDS have been traditionally very small, serving 4 to 6 students at any given time. Allowing a larger grade span will <u>not</u> diminish the program's effectiveness. It will allow the district to be able to serve more students. Currently, expelled students in grades 4-7 would have to travel 45 miles to the county run CDS. Allowing the district this flexibility during these economic times will actually give students more education options and not cost the district or state more money.

- **With the economic pressures facing schools and only being funded at approximately 70%, currently the district is unable to fund two full programs as it has in the past. We are requesting this waiver for only one year to help bridge the financial gap we currently find ourselves in.**
- **With the school district being small and remote we do not anticipate having more than a 6:1 student to teacher ratio. With this ratio there is plenty of individualized instruction. There are even times when there are no students enrolled and then there are times when there are only elementary students and others when there are only high school students. With the needs being so flexible we need more flexibility in our program to serve our students.**

8. Demographic Information:
<u>District</u> has a student population of **1046**__ and is located in a _**rural area**__ in __**Madera**_____ County.
<u>Nearest Elementary CDS program is at the county office, which is approximately 45 miles away.</u>

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date: **09/13/2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	6	6	3	8	9	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Corcoran Joint Unified School District	Mary Taylor, Principal	mtaylor@corcoranunified.com

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
1520 Patterson Ave	Corcoran	CA	93212	(559) 992-8888 ext 7000 Fax Number: (559) 992-3957

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: ~~7.1.11~~ To: ~~6.30.2012~~ 7/2/11 6/30/2013	August 9, 2011 unanimous per M. Taylor 8/29/11 DS	August 9, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48661a Circle One: (*EC*) *or CR*

Topic of the waiver: Co-location of Community Day School with Continuation High School

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 39-5-2010-W-17 and date of SBE Approval 5/12/2010-6/30/2011 Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 6/17/2011
California School Employees Association: Ray Gamez, President per Donnetta Murray jb 8/17/11
California Teachers Association: Wendi Hulbert, President

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Posted a each school and three public places in the district

___ Notice in a newspaper X Notice posted at each school _X__ Other: *District website*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: June 17, 2011 School Site Advisory Council

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any ~~of kindergarten and~~ grades ~~1 to~~ 6 ~~, inclusive, or any of grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

48916.1. (d) ~~If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.~~

48661. (a) A community day school shall not be situated on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity, or continuation school, except as follows:

(1) When the governing board of a school district ~~with 2,500 or fewer units of average daily attendance reported for the most recent second principal apportionment~~ certifies by a two-thirds vote of its membership that satisfactory alternative facilities are not available for a community day school.

(b) A certification made pursuant to this section is valid for not more than one school year and may be renewed by a subsequent two-thirds vote of the governing board.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

We are requesting to renew a waiver for students in grades sixth through twelfth, as there are no services for them within our community. Hanford Community School is the only community school in our county that accepts sixth grade students, but the school is impacted and there is no room for Corcoran students. Kings Community School in Hanford provides services for seventh through 12th grade students. There is quite a distance to travel to reach Hanford. Many of our parents do not have available vehicles or cannot afford to purchase gas to drive their students to school a 40-mile round trip twice a day for five days a week. Parents are also uncomfortable sending their children to school on the available train or Kings Area Rural Transport bus. Those forms of transportation do not drop off the students at the school and the students must walk a few blocks to get to school. Some students do not make it to school on time or even at all if they choose to cut school. Hanford is a much larger city than Corcoran. Parents are concerned with the safety of their children that far away from home by themselves. Other parents do not trust their children to make responsible decisions due to their age and lack of adult supervision to and from school at such a far location. Parents also state that they have to work and cannot take their children to school that far away and pick them up. Many parents choose to not send their children to school at all. Some have tried online classes and have found that the cost and lack of adult interaction with their children is not conducive to learning. We get requests from parents begging us not to send their children to a school that is out of town. Maintaining a Community Day School in Corcoran will help students continue their education while it will help parents meet their obligations to keep their children in school.

Locating this Community Day School on a different and separate campus is not an option that we have available due to the on-going financial difficulties that all school districts are currently facing.

All Community Day School students have been and continue to be kept separate from the other Continuation students on campus. The class will be self-contained with one teacher and two part-time instructional aides to allow for two adults in the classroom at all times. There have been no negative interactions between students of the two schools.

Community Day School students' classroom, restroom, eating area and recreational area will be fenced off.
Strict daily schedules will be followed for both programs and students will not be together any time during the school day.

Students to be assigned to the Mission Community Day School in Corcoran, CA must meet one or more of the following Conditions: (1) The pupil is expelled for any reason; (2) The pupil is probation referred pursuant to Sections 300 and 602 of the Welfare and Institutions Code; (3) The pupil is referred to a community day school by a school attendance review board or other district level referral process. First priority will be given to expelled students.

Students will enroll in their current grade levels upon entry to the Community Day School. Each student will be placed on an Individual Learning Plan. The curriculum students use will follow district adopted materials and grade level requirements. Each student's progress will be evaluated on three week intervals and parents will be notified of student progress using progress reports and reports cards that will be sent home each quarter and semester following regular school schedules.

Each sending school will provide learning support services. Special Education services will be provided by the district through the sending schools. Mental health services and counseling support will be provided as needed following parent intake appointments with Kings View Mental Health.

This program will be evaluated annually and changes will be made as needed.

We have completed our first year of this program. It has provided a very positive environment for all of our students. The parents of our students are extremely pleased with the location of our school along with the academic curriculum that was provided for each child. Students were given the opportunity to receive counseling services and parents were referred to the appropriate agencies as deemed necessary for each student's well being. This has been a positive year for all of us. The only changes we deemed necessary are to change our dress code to a more reserved model.

8. Demographic Information:
Corcoran Joint Unified School District has a student population of 3,300 and is located in a rural city in Kings County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee: Rich Merlo	Title: Superintendent	Date: August 9, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	7	6	4	0	3	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lakeport Unified School District	Elwira Leonard, Principal	eleonard@lakeport.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2508 Howard Ave.	Lakeport	CA	95453	707 262-3013 Fax Number: 707 263-6304

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 08/01/2011 To: 08/01/2012	07/14/2011	07/14/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48660 and 48916.1(d) Circle One: *EC* ~~or *CCR*~~
DS 9/14/11
Topic of the waiver: Grade span for Community Day School

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 07/08/2011

Name of bargaining unit and representative(s) consulted: Lakeport Unified Teachers' Association-Pam Klier, President
Lakeport Unified Classified Employees' Association-Doreen McGuire-Grigg, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X__ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Presidents of the Terrace School Site Council and the Clear Lake High School Site Council

Date the committee/council reviewed the waiver request: 07/08/2011

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 ~~to 6, inclusive, or any of grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that serves kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8, inclusive, upon a two-thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

48916.1. (d) ~~If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 4866~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The primary goal of the Lakeport Community Day School is focused on enhancing student learning through the developmental improvement and implementation of a quality academic and therapeutic alternative educational program for expelled students in grades six (6) through eight (8). However, Lakeport Unified School District is lacking in alternative opportunities to provide education for expelled 9th graders. Our district cannot afford to open a 9th-12th grade CDS program nor do we have the facilities. Ninth grade students are also not old enough to legally attend our continuation high school.

The enrollment in the Community Day School has been low, which would allow us to serve additional 9th grade students. The success of the program will continue to be driven by the ongoing efforts of the highly motivated and dedicated teaching and administrative staff working together with students, parents, the District Superintendent, and the District Governing Board. In addition, the current Community Day School teacher has successful high school teaching experience. The district-operated Community Day School will make efforts to meet the academic and behavioral needs of its “at-risk” student population through intervention models that may involve student/family counseling, behavioral plans and contracts developed with the district’s behaviorist, and contact with a school resource officer. Every student enrolled in the Community Day School will continue to be assigned an educational plan that will be closely monitored and assessed by a highly qualified teacher. Additionally, a part-time paraprofessional has been assigned to assist students in daily academic activities. Program size will remain small because the district does not foresee any reason to exceed the current enrollment cap of ten students.

8. Demographic Information:

Lakeport Unified School District has a student population of 1,500 and is located in the small, rural community of Lakeport in Lake County. The Lakeport Community Day School is currently serving six students. With the new grade span we would not exceed the current limit of ten students in the program in order to best meet the unique educational needs of students in grades six through nine.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No XX☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No XX ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 07/07/2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	7	5	0	5	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address: suzette_davis@lvsd.k12.ca.us
Lucerne Valley Unified School District	Suzette Davis, Superintendent	

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): (760) 248-6108 ext. 4131
8560 Aliento Road	Lucerne Valley	CA	92356	Fax Number: (760) 248-6677

Period of request: (month/day/year) DS	Local board approval date: (Required)	Date of public hearing: (Required)
7/2/2011 6/30/2013 From: ~~7/1/2011~~ To: ~~6/30/2012~~	July 13, 2011 unanimous	July 13, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 48660 and 48916.1 Circle One: (*EC*) or *CCR*

   Topic of the waiver: Grade level of pupils to be served in a Community Day School classroom.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: ~~N/A~~ 9-7-2010 and date of SBE Approval Sept. 2010
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): May 31, 2011
   Name of bargaining unit and representative(s) consulted: California School Employees Association – Karol Thompson, May 31, 2011
   Lucerne Valley Teachers Association - Chris Pennington Lead Negotiator
   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): None

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school __X_ Other: *3 Public Locations*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Lucerne Valley Elementary School Site Council
   Date the committee/council reviewed the waiver request: **None** September 14, 2011

   Were there any objection(s)? No __x_ Yes ___ (*If there were objections please specify)* per Suzette Davis 9/14/11 DS

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

48660. The governing board of a school district may establish one or more community day schools for pupils who meet one or more of the conditions described in subdivision (b) of Section 48662. A community day school may serve pupils in any of kindergarten and grades 1 ~~to 6, inclusive, or any grades 7~~ to 12, inclusive, or the same or lesser included range of grades as may be found in any individual middle or junior high school operated by the district. If a school district is organized as a district that services kindergarten and grades 1 to 8, inclusive, but no higher grades, the governing board of the school district may establish a community day school for any [of] kindergarten and grades 1 to 8 inclusive, upon a two thirds vote of the board. It is the intent of the Legislature, that to the extent possible, the governing board of a school district operating a community day school for any of kindergarten and grades 1 to 8, inclusive, separate younger pupils from older pupils within that community day school. Except as provided in Section 47634, a charter school may not receive funding as a community day school unless it meets all the conditions of apportionment set forth in this article.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Lucerne Valley is a small rural school district of less than 2,500 ADA. The district has experienced declining enrollment since 2007-08 at an average rate of 4.9%. It is located in a remote area and it is not practical to send expelled students to another location. The district wishes to provide educational services to all resident students. As a small district, Lucerne Valley finds it difficult to predict when and if a student in any particular grade level will need to be served by a community day school. At no time does it expect to have more than a few students **(max 10) Grade 3-12 span per Suzette Davis 9/14/11 DS** enrolled. This means that at any given time, the students may be in elementary or secondary grades – just as at any time it is possible that no student in any one of the grade spans would be enrolled. In light of this varying need for services and the current fiscal situation, the district cannot support two CDS's to separately serve students in kindergarten through grade six and those in grades seven through twelve. The district will provide appropriate supervision and grade level standards aligned instruction to all enrolled pupils.

The teacher will regularly consult with grade level appropriate subject matter experts in the district to ensure that high quality education programs are provided for all included grade levels **per Suzette Davis 8/29/11 DS**

8. Demographic Information:
Lucerne Valley Unified CDS Program has a student population of 4 and is located in a rural area in San Bernardino County. District 920 students

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Suzette Davis	Title: Superintendent	Date: June 27, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ITEM #W-10

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by two districts, under the authority of California *Education Code* Section 33050, to waive all portions of California *Education Code* sections 17473 and 17474 and portions of 17455, 17466, 17472, and 17475 relating to the sale and lease of surplus property. Approval of these waivers will allow the districts to lease or sell property using a "request for proposal process", thereby maximizing the proceeds from the sale or lease of the properties. Waiver Numbers: Huntington Beach Elementary 16-8-2011 Orange Unified 19-8-2011 Orange Unified 20-8-2011 Orange Unified 21-8-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval with the following conditions: the proposals the governing boards determine to be most desirable shall be selected within 30 to 60 days of the public meeting when the proposals are received, and the reasons for those determinations shall be identified in public sessions and included in the minutes of the meetings. Additionally, the districts must comply with the surplus property requirements, regarding offers to public agencies and non-profits, specified in *Education Code* (*EC*) sections 17464 through 17465, and 17485 et seq.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same provisions for the sale or lease of surplus property.

SUMMARY OF KEY ISSUES

Under the provisions of *EC* sections 33050 through 33053, the districts request that specific portions of the *EC* relating to the sale or lease of district property be waived. The districts believe that they will benefit substantially from the potential ongoing cash flow that will be generated by negotiated sale or lease arrangements. The districts are aware of potential buyers/tenants that are interested in undertaking negotiations to sell

SUMMARY OF KEY ISSUES (Cont.)

or lease the property under conditions that may be developed through the negotiating process. Additionally, the districts are requesting that the requirement of sealed proposals and the oral bidding process be waived allowing the districts to determine what constitutes the most "desirable" bid and set their own terms and conditions for the sale or lease of surplus property.

Because this is a general waiver, if the State Board of Education (SBE) decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

The flexibility in property disposition requested herein will allow the district to maximize revenue. There is no fiscal impact.

ATTACHMENT(S)

Attachment 1: Summary Table (1 Page)

Attachment 2: Huntington Beach City Elementary School District – Kettler Property General Waiver Request (5 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Orange Unified School District – Parkside Property General Waiver Request (5 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Orange Unified School District – Walnut Property General Waiver Request (5 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Orange Unified School District – Peralta Property General Waiver Request (5 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

SUMMARY TABLE								
Waiver Number	School District	Property	Period of Request	Local Board Approval Date	Public Hearing Date	Bargaining Unit Consulted – Date	Position of Bargaining Unit	Advisory Committee Consulted - Date
16-8-2011	Huntington Beach Elementary School District	Kettler	11/11/2011 to 11/10/2013	8/23/2011	8/23/2011	Huntington Beach Elementary teachers Association (HBETA) – 8/16/2011 California School employees Association, Chapter 316 (CSEA) – 8/11/2011	Support	Huntington Beach Community Advisory Committee – 8/16/2011 No objections
19-8-2011	Orange Unified School District	Parkside	11/11/2011 to 11/10/2013	8/25/2011	8/25/2011	Orange Unified Education Association (OUEA) – 8/18/2011 California School Employees Association (CSEA) – 8/16/2011	OUEA – Neutral CSEA - Support	Orange District Site Council – 8/23/2011 No objections
20-8-2011	Orange Unified School District	Walnut	11/11/2011 to 11/10/2013	8/25/2011	8/25/2011	Orange Unified Education Association (OUEA) – 8/18/2011 California School Employees Association (CSEA) – 8/16/2011	OUEA – Neutral CSEA - Support	Orange District Site Council – 8/23/2011 No objections
21-8-2011	Orange Unified School District	Peralta	11/11/2011 to 11/10/2013	8/25/2011	8/25/2011	Orange Unified Education Association (OUEA) – 8/18/2011 California School Employees Association (CSEA) – 8/16/2011	OUEA – Neutral CSEA - Support	Orange District Site Council – 8/23/2011 No objections

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	5	3	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Huntington Beach City School District	**Jon Archibald, Assistant Supt. Administrative Services**	jarchibald@hbcsd.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
20451 Craimer Lane	Huntington Beach	California	92646	(714) 378-2050 Fax Number: (714) 964-2993

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: Nov.11, 2011 To: Nov. 10, 2013	August 23, 2011	August 23, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

Portions of 17455, 17466, 17472, 17475, and all of 17473, 17474

Topic of the waiver: **Lease of Surplus Real Property**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Huntington Beach Elementary Teachers Association (HBETA) (CTA) was consulted on August 16, 2011. California School Employees Association, Chapter 316 (CSEA) was consulted on August 11, 2011.

Name of bargaining unit and representative(s) consulted: HBETA – Trinon Carter, President and CSEA – Mark Francovig, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(Please specify)* Posted at District Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Community Advisory Committee on August 16, 2011

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

\CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   Education Code Sections: 17455, 17466, 17472, 17473, 17474, 17475. Please see attached for requested waivers of these code sections.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:
   The District has a student population of 7,116 and is located in the urban city of Huntington Beach within Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

HUNTINGTON BEACH CITY SCHOOL DISTRICT WAIVER REQUEST

The following specific waiver (strike out) is requested:

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district~~, and shall be made in the manner provided by this article~~.

Rationale: The language indicating that the lease of property is to be made in the manner provided by this article is to be waived since the District is asking that several provisions of the article be waived and consequently, the lease will not be made in the manner provided by Article 4.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased~~ and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker ~~out of the minimum price or rental~~. ~~The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

Rationale: The stricken language to be waived provides for a minimum price or rental and requires sealed proposals to lease the property will be received. The District is requesting that the requirement of sealed proposals to lease the property be waived, allowing the District to negotiate the lease of the Kettler Property with an appropriate tenant who submits the proposal deemed to be most beneficial to the District. The District intends to develop a strategic plan for advertising and marketing of the Kettler Property in order to solicit proposals from potential tenants interested in the property.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all ~~sealed~~ proposals which have been received shall, in public session, be ~~opened,~~ examined, and declared by the board. Of the proposals submitted ~~which conform to all terms and conditions specified in the resolution of intention to sell or to lease and~~ which are made by responsible bidders, the proposal <u>which the Board determines represents the most desirable lease of the property shall be</u> ~~which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally~~ accepted~~, unless a higher oral bid is accepted or the board rejects all bids.~~

- The requirement that sealed proposals be received, and that the highest bidder be awarded the lease is stricken in order that the District may be able to lease the property to the party presenting the most favorable proposal to the District. The Board would consequently be able to award the lease to the party submitting the proposal that best meets the District's needs. These modifications would also permit the District to determine what constitutes the most desirable bid, set their

own terms and conditions, and would remove the requirement that an oral bid be accepted.

~~17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.~~

- The entire section is to be waived because the District, in negotiating an agreement to lease the property, will not be accepting oral bids in addition to sealed bids.

~~17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed .~~

- The entire section is to be waived because the District, in negotiating an agreement to lease the property, will not be accepting oral bids.

17475. The final acceptance by the governing body may be made ~~either at the same session or~~ at any adjourned session of the same meeting held within <u>30 to 60</u> ~~the 10~~ days ~~next~~ following.

- Modification of this section would require the District Board to wait at least 30 to as many as 60 days after the meeting at which proposals are presented, before awarding the lease, rather than making the award within 10 days. This will allow time for review of the proposal by District staff, board members, and the public before a final decision is made.

Attachment to Section 7:

The Huntington Beach City School District is seeking the ability to lease the approximate 9.8 acres of surplus property, the northerly 4.8 acres comprising the former Kettler Elementary School, with the southerly 5 acres restricted to recreational purposes, and collectively known as the "Kettler Property", located at 8750 Dorsett Drive, Huntington Beach, California 92646, through a negotiated lease with a suitable tenant utilizing the Request for Proposals process. The Kettler Property contains approximately 34,857 square feet of building area which is currently not being used. The 5 southerly acres of the Kettler Property was purchased from the City of Huntington Beach in 1971 subject to the covenants, conditions and restrictions placed on the property by the County of Orange; namely that the property be used only for the operation of a public park, playground and recreational facility for the beneficial use of the public.

The District during 2011 has previously attempted to lease the Kettler Property pursuant to the statutory bidding process set forth in Education Code sections 17455-17475 and received no responsive bids either time. The District would like to begin to market the property for lease shortly following approval of the District's waiver. The District does not believe that again attempting to follow the aforementioned competitive bidding process will be effective and desires to secure a waiver to provide the District with the greatest flexibility to enable the District to negotiate a satisfactory lease agreement that can take into consideration necessary land use approvals from local government agencies and other critical contingencies. The District would benefit substantially from the potential ongoing cash flow that could be generated by a carefully negotiated lease arrangement.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	6	2	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:superintendent @orangeusd.org
Orange Unified School District	**Michael Christensen, Superintendent**	

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): (714) 628-4040
1401 North Handy Street	Orange	California	92867	Fax Number: (714) 628-4041

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: Nov.11, 2011 To: Nov. 10, 2013	August 25, 2011	August 25, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

Portions of 17455, 17466, 17472, 17475, and all of 17473, 17474
Topic of the waiver: **Long Term Lease of Surplus Real Property (Parkside Property)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 16, 2011 (CSEA) and August 18, 2011 (OUEA)
Executive Director kak 8/31/11
Name of bargaining unit and representative(s) consulted: Orange Unified Education Association Dave Brown and California School Employees Association: John Miller, President kak 8/31/11

The position(s) of the bargaining unit(s): X (OUEA) Neutral X (CSEA) Support __ Oppose (*Please specify why*)
Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: District Site Council on August 23, 2011

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   Education Code Sections: 17455, 17466, 17472, 17473, 17474, 17475. Please see attached for requested waivers of these code sections.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:
   The District has a student population of 30,524 and is located in the urban cities of Orange, Villa Park, Anaheim and Garden Grove, and in the unincorporated area of Orange County, in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Michael L. Christensen** **Superintendent of Schools**	Date: **August 26, 2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ORANGE UNIFIED SCHOOL DISTRICT WAIVER REQUEST

The following specific waiver (strike out) is requested:

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district~~, and shall be made in the manner provided by this article~~.

Rationale: The language indicating that the lease of property is to be made in the manner provided by this article is to be waived since the District is asking that several provisions of the article be waived and consequently, the lease will not be made in the manner provided by Article 4.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased~~ and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker ~~out of the minimum price or rental~~. ~~The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

Rationale: The stricken language to be waived provides for a minimum price or rental and requires sealed proposals to lease the property will be received. The District is requesting that the requirement of sealed proposals to lease the property be waived, allowing the District to negotiate the lease of the Parkside Property with an appropriate tenant who submits the proposal deemed to be most beneficial to the District. The District intends to develop a strategic plan for advertising and marketing of the Parkside Property in order to solicit proposals from potential tenants interested in the property.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all ~~sealed~~ proposals which have been received shall, in public session, be ~~opened,~~ examined, and declared by the board. Of the proposals submitted ~~which conform to all terms and conditions specified in the resolution of intention to sell or to lease and~~ which are made by responsible bidders, the proposal which the Board determines represents the most desirable lease of the property shall be ~~which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate~~

~~broker in connection therewith, shall be finally~~ accepted~~, unless a higher oral bid is accepted or the board rejects all bids.~~

- The requirement that sealed proposals be received, and that the highest bidder be awarded the lease is stricken in order that the District may be able to lease the property to the party presenting the most favorable proposal to the District. The Board would consequently be able to award the lease to the party submitting the proposal that best meets the District's needs. These modifications would also permit the District to determine what constitutes the most desirable bid, set their own terms and conditions, and would remove the requirement that an oral bid be accepted.

~~17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.~~

- The entire section is to be waived because the District, in negotiating an agreement to lease the property, will not be accepting oral bids in addition to sealed bids.

~~17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed .~~

- The entire section is to be waived because the District, in negotiating an agreement to lease the property, will not be accepting oral bids.

17475. The final acceptance by the governing body may be made ~~either at the same session or~~ at any adjourned session of the same meeting held within 30 to 60 ~~the 10~~ days ~~next~~ following.

- Modification of this section would require the District Board to wait at least 30 to as many as 60 days after the meeting at which proposals are presented, before awarding the lease, rather than making the award within 10 days. This will allow time for review of the proposal by District staff, board members, and the public before a final decision is made.

Attachment to Section 7:

The Orange Unified School District is seeking the ability to lease the approximate 9.248 acres of surplus property known as the "Parkside Property", located at 250 South Yorba Street, Orange, California 92869, through a negotiated lease with a suitable tenant utilizing the Request for Proposals process. The Parkside Property contains 15,722 square feet of building area currently used for school age day care, infant care, pre-school special education and classroom for Community Day School, Regional Occupation Programs, all such uses of which will be relocated to one or more other District school sites should the District lease the property. The District is in discussions with the City of Orange − who owns an approximate 8 acres of property immediately adjacent to the Parkside Property − to enter into a potential joint venture arrangement to lease the approximate 20 cumulative acres for commercial use. The District would like to begin to market the property for lease shortly following approval of the District's waiver. The District does not believe that the statutory competitive bidding process set out in Education Code sections 17455-17475 would be effective given the collective experience of school districts which have found that most commercial property developers are reluctant to submit unconditional bids in a competitive process, and require a negotiated lease agreement that can take into consideration necessary land use approvals from local government agencies and other critical contingencies. If the District goes through the procedures set out in Education Code sections 17455-17475, the market value of the property may be depressed because potential tenants will be aware of the lack of competition in leasing the property (in spite of the fact that the process is labeled "competitive"). The District has become aware that several potential tenants may be interested in undertaking negotiations to lease the site under conditions that may be developed through the negotiating process. The District would benefit substantially from the potential ongoing cash flow that could be generated by a carefully negotiated lease arrangement.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	6	2	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Orange Unified School District	**Michael Christensen, Superintendent**	superintendent @orangeusd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
1401 North Handy Street	Orange	California	92867	(714) 628-4040 Fax Number: (714) 628-4041

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: Nov.11, 2011 To: Nov. 10, 2013	August 25, 2011	August 25, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

Portions of 17455, 17466, 17472, 17475, and all of 17473, 17474

Topic of the waiver: **Sale or Lease of Surplus Real Property (Walnut Property)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 16, 2011 (CSEA) and August 18, 2011 (OUEA)

Name of bargaining unit and representative(s) consulted: Orange Unified Education Association Dave Brown Executive Director kak 8/31/11 and California School Employees Association: John Miller, President kak 8/31/2011

The position(s) of the bargaining unit(s): X (OUEA) Neutral X (CSEA) Support __ Oppose (*Please specify why*)
Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: District Site Council on August 23, 2011

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   Education Code Sections: 17455, 17466, 17472, 17473, 17474, 17475. Please see attached for requested waivers of these code sections.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:
   The District has a student population of 30,524 and is located in the urban cities of Orange, Villa Park, Anaheim and Garden Grove, and in the unincorporated area of Orange County, in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Michael L. Christensen** **Superintendent of Schools**	Date: **August 26, 2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ORANGE UNIFIED SCHOOL DISTRICT WAIVER REQUEST

The following specific waiver (strike out) is requested:

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district~~, and shall be made in the manner provided by this article~~.

Rationale: The language indicating that the sale or lease of property is to be made in the manner provided by this article is to be waived since the District is asking that several provisions of the article be waived and consequently, the lease will not be made in the manner provided by Article 4.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased~~ and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker ~~out of the minimum price or rental~~. ~~The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

Rationale: The stricken language to be waived provides for a minimum price or rental and requires sealed proposals to sell or lease the property will be received. The District is requesting that the requirement of sealed proposals to sell or lease the property be waived, allowing the District to negotiate the sale or lease of the property with an appropriate buyer or tenant who submits the proposal deemed to be most beneficial to the District. The District intends to develop a strategic plan for advertising and marketing of the property in order to solicit proposals from potential buyers or tenants interested in the property.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all ~~sealed~~ proposals which have been received shall, in public session, be ~~opened,~~ examined, and declared by the board. Of the proposals submitted ~~which conform to all terms and conditions specified in the resolution of intention to sell or to lease and~~ which are made by responsible bidders, the proposal which the Board determines represents the most desirable sell or lease of the property shall be ~~which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally~~ accepted~~, unless a higher oral bid is accepted or the board rejects all bids.~~

- The requirement that sealed proposals be received, and that the highest bidder be awarded the sale or lease is stricken in order that the District

may be able to sell or lease the property to the party presenting the most favorable proposal to the District. The Board would consequently be able to award the purchase or lease to the party submitting the proposal that best meets the District's needs. These modifications would also permit the District to determine what constitutes the most desirable bid, set their own terms and conditions, and would remove the requirement that an oral bid be accepted.

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- The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids in addition to sealed bids.

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- Modification of this section would require the District Board to wait at least 30 to as many as 60 days after the meeting at which proposals are presented, before awarding the sale or lease, rather than making the award within 10 days. This will allow time for review of the proposal by District staff, board members, and the public before a final decision is made.

Attachment to Section 7:

The Orange Unified School District is seeking the ability to sell or lease an approximate 9.17 acres of unimproved surplus property known as the "Walnut Property", located south of the Walnut Avenue drive entry to the Santiago Middle School, whose address is 515 North Rancho Santiago Boulevard, Orange, California 92869, through a negotiated sale or lease with a suitable buyer/tenant utilizing the Request for Proposals process. The Walnut Property is currently zoned for single-family homes. Only the southerly portion of the property is being used as a palm farm pursuant to a lease which may be terminated upon 180-day prior written notice. The District would like to begin to market the property for sale or lease shortly following approval of the District's waiver. The District does not believe that the statutory competitive bidding process set out in Education Code sections 17455-17475 would be effective given the collective experience of school districts which have found that most property developers are reluctant to submit unconditional bids in a competitive process, and require a negotiated sales or lease agreement that can take into consideration necessary land use approvals from local government agencies and other critical contingencies. If the District goes through the procedures set out in Education Code sections 17455-17475, the market value of the property may be depressed because potential buyers/tenants will be aware of the lack of competition in selling/leasing the Property (in spite of the fact that the process is labeled "competitive"). The District has become aware that several potential buyers/tenants may be interested in undertaking negotiations to sell or lease the property under conditions that may be developed through the negotiating process.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Orange Unified School District	**Michael Christensen, Superintendent**	superintendent @orangeusd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
1401 North Handy Street	Orange	California	92867	(714) 628-4040 Fax Number: (714) 628-4041

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: Nov.11, 2011 To: Nov. 10, 2013	August 25, 2011	August 25, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: ***EC*** or *CCR*

Portions of 17455, 17466, 17472, 17475, and all of 17473, 17474

Topic of the waiver: **Sale or Lease of Surplus Real Property (Peralta Property)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): August 16, 2011 (CSEA) and August 18, 2011 (OUEA)

Name of bargaining unit and representative(s) consulted: Orange Unified Education Association Dave Brown Executive Director kak 8/31/11 and California School Employees Association: John Miller, President kak 8/31/11

The position(s) of the bargaining unit(s): X (OUEA) Neutral X (CSEA) Support __ Oppose (*Please specify why*)
Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: District Site Council on August 23, 2011

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   Education Code Sections: 17455, 17466, 17472, 17473, 17474, 17475. Please see attached for requested waivers of these code sections.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:
   The District has a student population of 30,524 and is located in the urban cities of Orange, Villa Park, Anaheim and Garden Grove, and in the unincorporated area of Orange County, in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Michael L. Christensen** **Superintendent of Schools**	Date: **August 26, 2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

ORANGE UNIFIED SCHOOL DISTRICT WAIVER REQUEST

The following specific waiver (strike out) is requested:

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district~~, and shall be made in the manner provided by this article~~.

Rationale: The language indicating that the sale or lease of property is to be made in the manner provided by this article is to be waived since the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided by Article 4.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it ~~and shall specify the minimum price or rental and the terms upon which it will be sold or leased~~ and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker ~~out of the minimum price or rental~~. ~~The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.~~

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~~broker in connection therewith, shall be finally~~ accepted~~, unless a higher oral bid is accepted or the board rejects all bids.~~

- The requirement that sealed proposals be received, and that the highest bidder be awarded the sale or lease is stricken in order that the District may be able to sell or lease the property to the party presenting the most favorable proposal to the District. The Board would consequently be able to award the purchase or lease to the party submitting the proposal that best meets the District's needs. These modifications would also permit the District to determine what constitutes the most desirable bid, set their own terms and conditions, and would remove the requirement that an oral bid be accepted.

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- Modification of this section would require the District Board to wait at least 30 to as many as 60 days after the meeting at which proposals are presented, before awarding the sale or lease, rather than making the award within 10 days. This will allow time for review of the proposal by District staff, board members, and the public before a final decision is made.

Attachment to Section 7:

The Orange Unified School District is seeking the ability to sell or lease the approximate 19.57 acres of surplus property known as the "Peralta Property", through a negotiated sale or lease with a suitable buyer/tenant utilizing the Request for Proposals process. The Peralta Property is currently being leased by the District for a golf driving range and subleased for a daycare center, dance studio, and private elementary school. The term of the existing lease expires April 1, 2015 along with related subleases. The District would like to begin to market the property for sale or lease shortly following approval of the District's waiver. Given the time that may be required for the successful buyer/lessee to secure the necessary entitlements for the development of the property, along with the complications associated with the existing lease/subleases on the property, the District does not believe that the statutory competitive bidding process set out in Education Code sections 17455-17475 would be effective. The collective experience of school districts have found that most property developers are reluctant to submit unconditional bids in a competitive process, and require a negotiated sales or lease agreement that can take into consideration necessary land use approvals from local government agencies and other critical contingencies. If the District goes through the procedures set out in Education Code sections 17455-17475, the market value of the property may be depressed because potential buyers/tenants will be aware of the lack of competition in selling/leasing the property (in spite of the fact that the process is labeled "competitive"). The District has become aware that several potential buyers/tenants may be interested in undertaking negotiations to sell or lease the property under conditions that may be developed through the negotiating process.

ITEM #W-11

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Twin Rivers Unified School District** to waive California *Education Code* sections 15102, 15106, 15268, and 15270(a) to allow the district to exceed its bonded indebtedness limit of 1.25 percent of the taxable assessed value of property and $30 per $100,000 assessed value (requesting 2.50 percent and $60, respectively). Waiver Number: 14-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

That the bonded indebtedness limit of Twin Rivers Unified School District (USD) be waived provided that it (1) does not exceed 2.5 percent of the assessed valuation of taxable property of the district and that the waiver is limited to the sale of bonds approved by the voters in the June 2006 election, and (2) at no time is the tax levy to exceed the $30 per $100,000 of taxable property assessed valuation as stated on Measure G.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all bond limit waiver requests limited to the sale of already authorized bonds and at the tax rate stated on the bond measure.

Note, the SBE has never approved a waiver that would allow the district to exceed the tax rate as stated on the bond measure, as Twin Rivers USD is requesting.

SUMMARY OF KEY ISSUES

Twin Rivers USD is requesting a waiver of California *Education Code (EC)* sections 15102 and 15268, which prohibit high school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property and *EC* sections 15106 and 15270(a) which prohibit unified school districts from issuing bonds in excess of 2.5 percent of the assessed valuation of a district's taxable property.

On July 1, 2008, Twin Rivers USD was formed through the unification of the following four school districts: 1) Del Paso Heights Elementary School District, 2) Grant Joint

SUMMARY OF KEY ISSUES (Cont.)

Union High School District, 3) North Sacramento Elementary School District and, 4) Rio Linda Union Elementary School District. The new Twin Rivers Unified School District has 35 elementary schools, six middle schools, eight high schools, four small schools, and five alternative schools. With the unification, Twin Rivers USD assumed all assets, debt, and remaining bond authorizations of the merged high school district and elementary school districts.

The district is requesting to issue bonds up to the limit prescribed in California *Education Code* for a unified school district (i.e., 2.5 percent of the assessed valuation of the district's taxable property and the tax rate of $60 per $100,000 of taxable property assessed valuation), the maximum provided in statute for a unified district. The district is requesting to waive its current lower limits to accelerate the issuance of already authorized bonds in order to repay current Certificate of Participation (COP) debt and thereby save the taxpayers over $230 million in debt service and save the district $96 million in general fund costs.

In June 2006, voters in the Grant High School District (Grant) approved a $230 million general obligation measure for acquisition, construction, upgrades, or replacement of school facilities (Measure G bond). To advance proceeds for its capital projects, in anticipation of the future issuance of general obligation bonds, the district issued multiple COPs. However, since Grant's enrollment and assessed valuation projections did not materialize, the district is faced with retiring COP debt prior to 2016 but has no statutory room to issue bonds to service this debt. This results in a district general fund cost.

To date, the district has issued approximately $89 million of the bonds, leaving $141 million unissued. The district requests to issue the remaining $141 million. However, according to the district, its current debt ratio and tax rate is already at the statutory limit. The waiver would allow the district to issue an additional $27 million in bonds in 2012 to pay down the COPs issued by Grant in 2003 and 2007. The remaining $114 million will be issued over the next several years to retire the remaining Grant COPs to avoid serious financial stress to the district's general fund. Again, according to district estimates, by issuing the bonds it will save over $230 million and reduce the general fund encroachment by $96 million.

Based on the district's 2010-11 assessed valuation, scheduled principal reduction on outstanding bonds, and an estimated four percent annual growth in assessed valuation over the next 11 years (the ten year average growth rate in assessed valuation was 5.63 percent), the district projects that if it issues the remaining $141 million in bonds at no time will the district's bonded indebtedness ratio exceed the statutory limit of 2.5 percent for a unified school district or exceed $60 per $100,000 of taxable property.

The California Department of Education (CDE) staff recommends approving the 2.5 percent debt capacity limit, but to maintain the $30 per $100,000 of assessed property value. The Grant Joint Union High School District School Repair and Construction Bond of 2006 (Measure G) was approved by the voters with ballot information stating that the

SUMMARY OF KEY ISSUES (Cont.)

tax rate will not exceed $30 per $100,000 of taxable property. Furthermore, the unification proposal Measure B Arguments in Favor of the Measure stated the unification would not raise tax rates. Therefore, at the time both measures were approved, voters acted with information that the tax rate would be $30 per $100,000 of taxable property.

It is CDE's assumption that the average voter is unaware tax rates could be changed by the SBE through a waiver process. CDE believes the district should take the tax rate increase back to the voters.

It is also CDE's concern that if the SBE takes action to approve the waiver as requested, the SBE's decision may set a precedent and have an adverse effect on local approval of future bond measures, given that the SBE can change the tax rate the voters approved.

The CDE recommends the board approve the district's request with the following conditions: The waiver is limited to the sale of bonds approved by the voters in the June 2006 election and the bonded indebtedness will not exceed 2.5 percent of assessed valuation. In addition, at no time before issuance of any additional authorized bonds will the tax levy exceed $30 per $100,000 of taxable property.

Demographic Information: Twin Rivers USD has a student population of approximately 30,000 and is located in Sacramento County

Authority for Waiver: *EC* Section 33050

Period of request: November 10, 2011 to August 1, 2021. The district requested August 1, 2011 to August 1, 2021

Local board approval date(s): March 26, 2011

Public hearing held on date(s): March 26, 2011

Bargaining unit(s) consulted on date(s): Twin Rivers United Educators (TRUE) (3/9/11 and 3/24/11), and California School Employees Association (CSEA) (3/22/11)

Name of bargaining unit/representative(s) consulted: TRUE, John Ennis and Kristen Finney; CSEA, Ernie Jiles, Moe Kang, and Jeff Askins

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate):

SUMMARY OF KEY ISSUES (Cont.)

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Budget Advisory Committee, March 15, 2011, Bond Citizen's Oversight Committee, March 22, 2011, Twin Rivers Employees Representative Council, April 11, 2011

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: see Advisory committee(s) consulted

FISCAL ANALYSIS (AS APPROPRIATE)

Given the unification, approval of this waiver would allow the district to accelerate the issuance of voter-approved bonds at the bonding capacity of 2.5, percent which applies to unified school districts, and retire Certificates of Participation to avoid serious financial stress to the district's general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (7 pages) (Original waiver is signed and on file in the SBE Office or the Waiver Office).

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	4	7	6	5	0	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Twin Rivers Unified School District	Frank Porter, Superintendent	frank.porter@twinriversusd.org

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
5115 Dudley Avenue, Bay A, McClellan, CA 95652	916-566-1785 Fax Number: 916-566-1784

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: ~~8/1/2011~~ 11/10/2011 To: 8/1/2021	3/26/11	3/26/11

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: (*EC*) or *CCR*
15102, 15106, 15268, 15270(a), 15334.5
Topic of the waiver: Bonding Capacity and Tax Rate Limit for Bonds

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): Twin Rivers United Educators (3/9/11 and 3/24/11), Twin Rivers Police Officers Association (2/16/11), California School Employees Association (3/22/11)
per Sharon 5/19/11 jb

Name of bargaining unit and representative(s) consulted: TRUE – John Ennis, President & Kristen Finney, Vice President;
TRPOA – Arlin Kocher, President;
CSEA – Ernie Jiles, President, Moe Kang, Field Representative and Jeff Askins, Negotiations 1st. Chair
per Vickie 5/19/11 jb

The position(s) of the bargaining unit(s): _X_ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate): Letters of support and neutrality are attached as Exhibit F1, F2 & F3

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Budget Advisory Committee (3/15/11), Bond Citizen's Oversight Committee (3/22/11), Twin Rivers Employee Representative Council (4/11/11)
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

Letters of support are attached as Exhibit F4, F5 & F6

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   See attachment "Response to Question 6"

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See attachment "Response to Question 7"

8. Demographic Information:
   The District serves a population of approximately 30,000 students and currently operates 34 elementary schools, 6 junior high schools, 5 high schools, 6 charter schools, 2 adult education schools and 6 alternative schools and is located in the northern portion of Sacramento County extending into Placer County, encompassing approximately 120 square miles.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: April 29, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education
General Waiver Request

Response to Question #6

Twin Rivers Unified School District
Waiver of Education Code Sections 15102, 15106, 15268, 15270(a) and 15334.5

Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

15102. ~~The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.~~ For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15106. ~~A unified school district or community college district may issue bonds that, in aggregation with bonds issued pursuant to Section 15270, shall not exceed 2.5 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located.~~

In computing the outstanding bonded indebtedness of a unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively.

(a) For the purposes of the State School Building Aid Law of 1952 (Chapter 6 (commencing with Section 16000)) with respect to applications for apportionments and apportionments filed or made prior to September 15, 1961, and to the repayment thereof, Chapter 4 (commencing with Section 15700), inclusive, only, a unified school district shall be considered to have a bonding capacity in the amount permitted by law for an elementary school district and a bonding capacity in the amount permitted by law for a high school district.

(b) For purposes of this section, the taxable property of a district for a fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll. In the event of the unification of two or more school districts or community college districts subsequent to the 1987-88 fiscal year, the assessed value of all unitary and operating nonunitary property of the unified district or community college district shall be deemed to be the total of the assessed value of the taxable property of each of the unifying districts as that assessed value would be determined under Section 15102.

15268. ~~The total amount of bonds issued, including bonds issued pursuant to Chapter 1 (commencing with Section 15100), shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred by a school district pursuant to this chapter, at a single election, would not exceed thirty dollars ($30) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.~~ For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15270. ~~(a) Notwithstanding Sections 15102 and 15268, any unified school district may issue bonds pursuant to this article that, in aggregation with bonds issued pursuant to Chapter 1 (commencing with Section 15100), may not exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. The bonds may only be issued if the tax rate levied to meet the requirements of Section 18 of Article XVI of the California Constitution in the case of indebtedness incurred pursuant to this chapter at a single election, by a unified school district, would not exceed sixty dollars ($60) per year per one hundred thousand dollars ($100,000) of taxable property when assessed valuation is projected by the district to increase in accordance with Article XIII A of the California Constitution.~~

15334.5. ~~Notwithstanding any other provision of law, no bonded indebtedness may be incurred pursuant to this part in an amount that would cause the bonded indebtedness of the territory of the school facilities improvement district or of the school district or community college district of which the school facilities improvement district is a part, to exceed the limitation of indebtedness specified in Sections 15102 and 15106. No bonded indebtedness may be incurred pursuant to this part in an amount that would cause the bonded indebtedness of the territory of the school facilities improvement district to exceed the limitation of indebtedness specified in Sections 15102 and 15106.~~

California Department of Education
General Waiver Request

Response to Question #7

Twin Rivers Unified School District
Desired Outcome / Rationale

Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations.

Purpose. Twin Rivers Unified School District (the "District") is seeking a waiver of Education Code sections 15102, 15106, 15268, 15270(a) and 15334.5 related to the issuance of general obligation bonds. The District was formed on July 1, 2008 as a result of the merger of three elementary school districts and one high school district. The prior existing debt and bond authorizations were consolidated and absorbed by the Twin Rivers USD. The purpose of the request is to waive the 1.25% debt capacity limit and $30.00 tax rate limit on the high school bond authorization and raise the limit and tax rate to 2.50% and $60.00 to reflect the District's "unified" status. The waiver would allow the District to accelerate the issuance of general obligation bonds, to retire Certificates of Participation ("COPs") (outstanding in the amount of $118,825,000) of the former high school district and avoid serious financial stress to the District's General Fund. The accelerated issuance accommodated by the provisions governing unified school districts is estimated to save taxpayers over $230 million and reduce the General Fund infringement by $96 million. We kindly request an increase of the Proposition 39 limitations to allow the District to issue at the rate and limits prescribed for unified school districts in the Education Code.

Overview. On July 1, 2008, the District was formed through the unification of the following four Sacramento County school districts: (1) Del Paso Heights Elementary School District, (2) Grant Joint Union High School District ("Grant District"), (3) North Sacramento Elementary School District and (4) Rio Linda Union Elementary School District. In connection with the unification, the District absorbed all assets and liabilities of the merged high school district and elementary school districts, including all outstanding debt and remaining general obligation bond authorization.

As demonstrated in the following background and rationale, approving the request for a waiver of the District's tax rate limitations up to the Proposition 39 unified school district level and waiver of the District's bonding capacity will allow the accelerated issuance of general obligation bonds to a) pay down a substantial amount of outstanding COPs to avoid severely stressing the District's General Fund and b) lower overall taxpayer repayment through the issuance of shorter maturing bonds at lower interest rates.

Background. Prior to the unification, the Grant District was involved in an active capital facilities program involving the issuance of multiple series of COPs to advance proceeds for capital projects in anticipation of the future issuance of general obligation bonds. It was projected that general obligation bonds would be used to pay off the COPs in their entirety by 2016 with little to no impact on the District's financials during the interim. The financing and facilities plan developed by the Grant District and its financing team was based on optimistic assessed valuation and enrollment growth projections, both of which did not materialize.

Upon unification, $188,825,000 of Grant District COPs was outstanding and the liability was subsequently inherited by Twin Rivers Unified with no ability to pay off the COPs prior to 2016. The District engaged a new financing team in 2008 to begin addressing the inherited COP problem that undoubtedly would impact the District's General Fund.

Several steps were taken to address the COPs, including retiring $70,000,000 of COPs in May 2009 and creating a $26 million Interest Payment Fund that would shield the District's General Fund for a finite period of time. The current outstanding amount of COPs is $118,825,000. The Interest Payment Fund has a current balance of approximately $20 million and is projected to shield the District's General Fund from making large COP payments through 2014-15.

<u>Grant District Election of 2006 General Obligation Bond Authorization</u>
On June 6, 2006, voters of the Grant District approved Measure G, authorizing the issuance of up to $230,000,000 of general obligation bonds. $55,000,000 and $33,998,991 of bonds were issued by the Grant District in 2006 and 2008, respectively, leaving $141,001,009 of bonds authorized but unissued. Additionally, the District issued

$39,000,000 of bond anticipation notes in 2009, which mature in 2014 and are to be repaid with a future series of GO bonds from the 2006 Election authorization. The proceeds of the bond anticipation notes were used to pay down a portion of the COPs. This leaves $102,001,009 of unencumbered authorization available to pay down COPs. Under the Election of 2006 authorized by Grant District voters, the Proposition 39 tax rate limit is $30.00 per $100,000 of assessed valuation and the bonding capacity limitation is 1.25% of the assessed valuation. Under current projections, the issuance schedule of the remaining authorization would be drawn out over the next 30 years and cost taxpayers over $1.1 billion in total debt service with a final maturity in 2080. With a unified school district tax rate limit of $60.00 per $100,000 of assessed valuation, the remaining authorization could be issued over the next 10 years and reduce the taxpayer burden by $230.5 million in debt service with an amortization schedule 19 years shorter. Additionally, the accelerated issuance of the remaining authorization would enable the District to pay down more COPs, in large part to prevent the impact of the COP debt service on the General Fund.

Grant District Certificates of Participation

On July 10, 2003, the Grant District sold $36,000,000 of 2003 COPs as weekly adjustable variable rate COPs. On July 12, 2007, the Grant District sold $133,000,000 of 2007 COPs as weekly adjustable variable rate COPs. These issuances were the third and fifth of a total of five series of the Grant District School Facility Bridge Funding Program. Both the 2003 and 2007 COPs were intended to be repaid with the future issuance general obligation bonds by 2016. Currently, $8,090,000 of 2003 COPs and $110,735,000 of 2007 COPs are outstanding in an extended rate mode paying interest at 3.5% until June 2013. The Interest Payment Fund described in the Background section makes interest payments on the 2007 COPs and is projected to shield the District's General Fund through 2014-15 at which time the COPs will likely be converted from the extended interest rate mode to a fixed interest rate mode.

District General Fund Impact

At the $30.00 tax rate threshold, current projections anticipate general obligation bond issuances to prepay COPs in 2020, 2025, 2030 and 2036. In comparison, under a unified school district $60.00 tax rate limitation, the District would be able to issue bonds in 2012, 2015, 2018 and 2022 to begin paying off COPs immediately.

The chart below compares the annual COP payments projected to be made from the District's General Fund. The District's General Fund would begin making large payments in 2015-16. Total debt service paid from the General Fund for the 2003 and 2007 COPs under current projections is $124 million. With a waiver to a $60.00 tax rate, the faster issuance of general obligation bonds would lower the overall impact to the District's General Fund by $96 million to $28 million.

Projected 2003 & 2007 COP Payments from General Fund		
Fiscal Year Ending	**Current Projections**	**With Waiver to $60.00**
2016	$3,914,912	$2,121,566
2017	6,114,658	2,121,566
2018	6,375,408	2,389,418
2019	6,433,908	1,534,418
2020	6,433,908	1,519,418
2021	6,433,908	1,519,418
2022	5,886,908	1,519,418
2023	5,863,658	485,400
2024	5,840,408	485,400
2025	5,817,158	485,400
2026 to 2038	65,430,880	13,982,000
Total	**$124,545,714**	**$28,163,482**

Taxpayer Burden

Current projections anticipate remaining general obligation bond issuances from the Election of 2006 authorization to occur in 2014, 2020, 2025, 2030, 2034 and 2039. All of these bond issuances must be issued as capital appreciation bonds to stay under a $30.00 tax rate. The higher expense of issuing 40-year capital appreciation bonds would cost taxpayers a total of $1 billion in interest on $141 million of bonds over the next 69 years. In comparison, under a $60.00 tax rate limitation, the District would be able to issue bond structures that have lower interest rates, saving taxpayers $230.5 million in interest and decreasing the final maturity of the bonds by 18 years.

Assessed Valuation and Bond Capacity. The boundaries of the former Grant District and Twin Rivers USD share the same tax base and are valued by the County Assessor at the same assessed valuation, as indicated in Exhibit B.

Under the Grant District's Election of 2006 general obligation bond authorization, the bonding capacity is computed using 1.25% of the Grant District assessed valuation with the outstanding indebtedness calculated using only those general obligation bonds issued by the Grant District and under the Grant District's prior authorization. Given the unification, the District is requesting to increase the bonding capacity from 1.25% to 2.50% and compute the outstanding indebtedness using all Twin Rivers Unified general obligation bonds.

Exhibit Summary:

A. TRUSD Board of Education Resolution No. 238

B. 2010-11 Sacramento County Assessor Assessed Valuation

C. Historical Assessed Valuation

D. Analysis of Bonded Indebtedness as a Percentage of Projected Assessed Valuation

E. Analysis of Tax Rates and Bond Issuance Schedules

F. Letters of Acknowledgement:

1. Twin Rivers Police Officers Association
2. Twin Rivers United Educators
3. California School Employees Association
4. Budget Advisory Committee
5. Citizens' Bond Oversight Committee
6. Twin Rivers Unified Employee Representative Council

G. Bond Counsel Legal Rationale (Letter Dated: April 28, 2011)

H. Attorney General Opinion No. 09-305 – Dated: December 20, 2010

ITEM #W-12

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by Lindsay Unified School District to waive the *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009. To allow David Mashtal, Nicholas Cervantes, Kurt Graves, and Alex Cervantes to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum requirements. Waiver Numbers: David Mashtal19-7-2011 Nicholas Cervantes 20-7-2011 Kurt Graves 21-7-2011 Alex Cervantes 22-7-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of the waivers for David Mashtal, Nicholas Cervantes, Kurt Graves, and Alex Cervantes, pursuant to California *Education Code (EC) 33051* (a)(1). The educational needs of the pupils are not adequately addressed.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

Since 2007, 176 of these waivers have been approved by the SBE, and 21 have been denied.

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-

SUMMARY OF KEY ISSUES

approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section

300.156(b)(1).

To meet this federal requirement, *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

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

An explanation of the scoring on each of the above named assessments is as follows:

- The EIPA is administered by Boys Town National Research Hospital in Omaha, Nebraska. An interpreter who takes the EIPA receives a single composite score from 1-5.

- The ESSE is administered by the Signing Exact English (SEE) Center in Los Alamitos, California. An interpreter who takes the ESSE receives a score from 1-5 in expressive interpreting skills and a separate score from 1-5 in receptive skills. Expressive interpreting refers to the ability to listen to a spoken English message and interpret it in signed language. Receptive skill refers to the ability to understand a signed message, and translate it to spoken or written English. An interpreter who takes the ESSE must receive a score of 4 or above on both portions of the evaluation.

- The NAD/ACCI assessment was administered by the California Coalition of Agencies Serving the Deaf and Hard of Hearing. An interpreter who took the NAD/ACCI assessment received a single composite score from 1-5. Administration of the NAD/ACCI assessment was discontinued in 2004.

Following are descriptions of the levels of educational interpreting provided by Boys Town National Research Hospital, which administers the EIPA:

SUMMARY OF KEY ISSUES (Cont.)

Level 1: Beginner

Demonstrates very limited sign vocabulary with frequent errors in production. At times, production may be incomprehensible. Grammatical structure tends to be nonexistent. Individual is only able to communicate very simple ideas and demonstrates great difficulty comprehending signed communication. Sign production lacks prosody and use of space for the vast majority of the interpreted message.

An individual at this level is not recommended for classroom interpreting

Level 2: Advanced Beginner

Demonstrates only basic sign vocabulary and these limitations interfere with communication. Lack of fluency and sign production errors are typical and often interfere with communication. The interpreter often hesitates in signing, as if searching for vocabulary. Frequent errors in grammar are apparent, although basic signed sentences appear intact. More complex grammatical structures are typically difficult. Individual is able to read signs at the word level and simple sentence level but complete or complex sentences often require repetitions and repairs. Some use of prosody and space, but use is inconsistent and often incorrect.

An individual at this level is not recommended for classroom interpreting.

Level 3: Intermediate

Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.

An interpreter at this level needs continued supervision and should be required to participate in continuing education in interpreting.

SUMMARY OF KEY ISSUES (Cont.)

Level 4: Advanced Intermediate

Demonstrates broad use of vocabulary with sign production that is generally correct. Demonstrates good strategies for conveying information when a specific sign is not in her/his vocabulary. Grammatical constructions are generally clear and consistent,but complex information may still pose occasional problems. Prosody is good, with appropriate facial expression most of the time. May still have difficulty with the use of facial expression in complex sentences and adverbial non-manual markers. Fluency may deteriorate when rate or complexity of communication increases. Uses space consistently most of the time, but complex constructions or extended use of discourse cohesion may still pose problems. Comprehension of most signed messages at a normal rate is good but translation may lack some complexity of the original message. An individual at this level would be able to convey much of the classroom content but may have difficulty with complex topics or rapid turn taking.

Level 5: Advanced

Demonstrates broad and fluent use of vocabulary, with a broad range of strategies for communicating new words and concepts. Sign production errors are minimal and never interfere with comprehension. Prosody is correct for grammatical, non-manual markers, and affective purposes. Complex grammatical constructions are typically not a problem. Comprehension of sign messages is very good, communicating all details of the original message.

An individual at this level is capable of clearly and accurately conveying the majority of interactions within the classroom.

Another way of clarifying the meaning of the scores is as follows:

Score	Rate of accuracy of interpretation
0	0%
1	20%
2	40%
3	60%
4	80%
5	100%

SUMMARY OF KEY ISSUES (Cont.)

In November 2009, the SBE adopted a policy outlining requirements for the submission of a waiver of the regulatory qualification standard for an educational interpreter. The

policy states, "The waiver will not be accepted without a current score (within 12 months). For your information**, if an interpreter has taken the assessment, but has not yet received the results, you can get a Pre-Hire Screen from Boys Town for use in seeing if your interpreter qualifies for a waiver."**

Boys Town National Research Hospital describes the Pre-Hire Screen as follows:

> The EIPA Diagnostic Center offers immediate screening of interpreters through its Pre-Hire Screening Version of the Educational Interpreter Performance Assessment. This version is provided for schools that need an immediate answer to whether an applicant is qualified to interpret in a classroom.
>
> The Pre-Hire Screening is intended as a rapid means of obtaining an overall rating of an applicant's skills. It is not intended as an in-depth assessment and will not meet state requirements for a full EIPA assessment. It is intended to help administrators make a quick decision regarding hire. If an interpreter receives a "*Skills at or above the required level*" rating, it does not mean that the interpreter can meet a state's minimal requirements.
>
> The instrument uses rating three broad categories of skills rather than numeric scores. Interpreters may receive a rating that shows skills at least at a minimum standard, indicating that the school can safely hire. The interpreter may be in a "Hire-With-Caution" category, indicating that while the interpreter has some good skills, a full EIPA evaluation is needed to determine whether minimum standards are met. Finally, the interpreter may receive a rating indicating that hiring is not recommended because the interpreter could not meet minimum standards using a full EIPA assessment. Schools are advised of the overall competency of an applicant in a more general, versus diagnostic manner.

The Lindsay USD provides special education and related services for four deaf and five hard of hearing students.

The Lindsay USD's job description for educational interpreters is reflective of the regulatory requirements.

During the 2009–10 school year, the Lindsay USD was granted waivers of the regulatory qualification standard for three educational interpreters. The Lindsay USD did not apply for any waivers during the 2010–11 school year, but retained at least one unqualified interpreter. When a CDE Consultant learned that Lindsay USD had retained

this unqualified interpreter, and hired five new unqualified interpreters, the CDE Consultant filed a complaint against Lindsay USD. As part of a local resolution of this

complaint, it was agreed that Lindsay USD would apply for waivers for its unqualified interpreters.

In order to apply for the waivers, the Lindsay USD was required to give the EIPA Pre-hire Screen to the five newly hired interpreters. Only one of the five achieved a rating of "OK to Hire". At that time, the CDE Consultant suggested to Lindsay USD that they withdraw the waiver requests for the four interpreters who did not score "OK to Hire", and replace them with qualified interpreters. The Lindsay USD Special Education Director opted not to withdraw the waivers, and to proceed with the waiver requests.

At this time, the Lindsay USD employs six educational interpreters, none of whom are fully qualified. The Lindsay USD has requested waivers of the regulatory qualification standard for all six interpreters. The CDE is recommending approval with conditions for two of the six interpreters as noted in waiver item W-3. This request is for the additional four interpreters. The current status of each of these educational interpreters is as follows:

David Mashtal

Mr. Mashtal has been employed as an educational interpreter by the Lindsay USD since August 17, 2010. He was hired without having taken any assessment of his interpreting skills, and worked as an unqualified interpreter during the 2010–11 school year. He took the EIPA Pre-Hire Screen in June 2011, and received an overall recommendation of "Hire With Caution." The EIPA raters noted the following about Mr. Mashtal's interpreting skills: "Able to convey the signer's signs, message lacked cohesion and some details were omitted. Prosody was subtle and lacked emphasis. Needs additional sign vocabulary for educational purposes, sign production lacked fluency and cohesion. Prosody was generally fairly well represented. Space and classifiers were not used effectively to convey the spoken discourse."

The following is a summary of Mr. Mashtal's assessment results:

Date	Assessment	Results
June 2011	EIPA Pre-Hire Screen	Overall rating: "Hire With Caution"

Mr. Mashtal has not taken a full EIPA or ESSE assessment, as is required by the SBE policy for application for a waiver of the regulatory requirement. He did not receive a clear rating of "OK To Hire" on the EIPA Pre-Hire Screen. The CDE recommends denial of this waiver request since the Lindsay USD has not demonstrated that Mr. Mashtal can meet the educational needs of students.

SUMMARY OF KEY ISSUES (Cont.)

1. Nicholas Cervantes

Mr. Nicholas Cervantes has been employed as an educational interpreter by the Lindsay USD since May 10, 2011. He was hired without having taken any assessment of his interpreting skills, and worked as an unqualified interpreter during the 2010–11 school year. He took the EIPA Pre-Hire Screen in June 2011, and received an overall recommendation of "Hire With Caution/Do Not Hire." The EIPA raters noted the following about Mr. Nicholas Cervantes' interpreting skills: "Candidate needs more vocabulary to render a complete message. Many hesitations and incomplete sentences were noted. Minimal use of space, classifiers and verb agreement were noted. Some simple sentence types were marked. The interpretation lacked fluency and cohesion. Candidate had fair comprehension of the signer's signs; non-manual information and finger spelling comprehension were problematic. Vocal intonation was subtle and lacked a natural sounding rhythm and fluency."

The following is a summary of Mr. Nicholas Cervantes' assessment results:

Date	Assessment	Results
June 2011	EIPA Pre-Hire Screen	Overall rating: "Hire With Caution/Do Not Hire"

Mr. Nicholas Cervantes has not taken a full EIPA or ESSE assessment, as is required by the SBE policy for application for a waiver of the regulatory requirement. He did not receive a clear rating of "OK To Hire" on the EIPA Pre-Hire Screen. The CDE recommends denial of this waiver request, because the Lindsay USD has not demonstrated that Mr. Nicholas Cervantes can meet the educational needs of students.

2. Kurt Graves

Mr. Graves has been employed as an educational interpreter by the Lindsay USD since December 14, 2010. He was hired without having taken any assessment of his interpreting skills, and worked as an unqualified interpreter during the 2010–11 school year. He took the EIPA Pre-Hire Screen in June 2011, and received an overall recommendation of "Do Not Hire." The EIPA raters noted the following about Mr. Graves' interpreting skills: "Candidate needs more vocabulary to render a complete message. The interpretation was lacking in fluency and cohesion. Sentences were incomplete and sentence types were generally not marked. Minimal use of space, classifiers and verb agreement were noted. Fairly good comprehension in the less complex sections. Fingerspelling comprehension was problematic. Vocal intonation was subtle and lacked emphasis and emotional information."

SUMMARY OF KEY ISSUES (Cont.)

The following is a summary of Mr. Graves' assessment results:

Date	Assessment	Results
June 2011	EIPA Pre-Hire Screen	Overall rating: “Do Not Hire”

Mr. Graves has not taken a full EIPA or ESSE assessment, as is required by the SBE policy for application for a waiver of the regulatory requirement. He did not receive a clear rating of “OK To Hire” on the EIPA Pre-Hire Screen. The CDE recommends denial of this waiver request since the Lindsay USD has not demonstrated that Mr. Graves can meet the educational needs of students.

3. Alex Cervantes

Mr. Alex Cervantes has been employed as an educational interpreter by the Lindsay USD since February 15, 2011. He was hired without having taken any assessment of his interpreting skills, and worked as an unqualified interpreter during the 2010–11 school year. He took the EIPA Pre-Hire Screen in June 2011, and received an overall recommendation of “Hire With Caution.” The EIPA raters noted the following about Mr. Alex Cervantes’ interpreting skills: “Adequate vocabulary for simple content was noted. Emerging skills in the use of space, verb agreement, classifiers, marking of sentence types, and affect were noted. Continue to build vocabulary for more complex content to aid in cohesion and fluency. Fair comprehension of the signer’s signs; fingerspelling comprehension was somewhat problematic; intonation was a bit monotone, lacked emphasis and conveyance of emotional information.”

The following is a summary of Mr. Alex Cervantes’ assessment results:

Date	Assessment	Results
June 2011	EIPA Pre-Hire Screen	Overall rating: “Hire With Caution”

Mr. Alex Cervantes has not taken a full EIPA or ESSE assessment, as is required by the SBE policy for application for a waiver of the regulatory requirement. He did not receive a clear rating of “OK To Hire” on the EIPA Pre-Hire Screen. The CDE recommends denial of this waiver request since the Lindsay USD has not demonstrated that Mr. Alex Cervantes can meet the educational needs of students.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school

SUMMARY OF KEY ISSUES (Cont.)

personnel protections are jeopardized. (5) Guarantees of parental involvement are

jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code**,** was not a participant in the development of the waiver.

Demographic Information: The Lindsay USD has a student population of 4,306 and is located in a small town in Tulare County.

Authority for Waiver: *EC* Section 33050

Period of request: August 1, 2011, to June 30, 2012

Local board approval date(s): July 11, 2011

Public hearing held on date(s): July 11, 2011

Bargaining unit(s) consulted on date(s): July 14, 2011

Name of bargaining unit/representative(s) consulted: California School Employees Association/Freddy Martinez, President

SUMMARY OF KEY ISSUES (Cont.)

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: Washington Elementary School Site Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: July 11, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **__David Mashtal_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 7/14/11

   Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Washington Elementary School Site Council

   Date the committee/council reviewed the waiver request: 7/11/11

   Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **EIPA, 6/28/11, Overall Recommendation: Hire with caution/supervision, Full EIPA Assessment within 1 year of employment.**
2. Copy of the latest Test Certification page: **Attached**
3. Name, dates and scores of previous assessments **N/A**
4. Date of hire **August 17, 2010**
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16(b)(3) and 3065, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ES SEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. As a condition for waiver approval, a remediation plan must be in place and evidence must be submitted to prove that the educational interpreter is making satisfactory progress towards meeting certification requirements.

I understand that I do not meet the standard for educational interpreters as outlined above and in order to become a certified educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ RID National Certification

Score 4.0 or above on one of the following assessments:

☐ EIPA ☒ ESSE-I/R ☐ NAD/ACCI

Actions I will take to complete the above requirements:
(Describe your plan)

☒ Take the test preparation interpreter course offered by Cypress College on:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Participate in district sponsored staff development for interpreter test preparation led by the certified lead educational interpreter and supervised by the Director of Special Education.
Date(s): Each Wednesday during district-wide staff development time.

☒ Participate in monthly meetings with the Director of Special Education and Principal to review educational interpreter effectiveness and improvement of educational interpreter skills.
Date(s): Unknown at this time, TBD with Principal

☒ Participate in supplemental educational interpreter training workshops as directed by the Director of Special Education.
Date(s): Unknown at this time, TBD

☒ Take on-line opportunities for Interpreter Trainings:
Date(s): Unknown at this time, TBD

☒ Meet with mentor for individualized coaching on a weekly basis:
Mentor Signature: Unknown at this time, TBD

☒ Use/work with resources offered at Tulare County Office of Education/ Deaf and Hard of Hearing Service Center:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Take the ESSE-I/R assessment before the last day of school as sponsored by Tulare County Office of Education on:
Date: Unknown at this time, TBD

I further understand that the Director of Special Education and I will discuss my Certification Remediation Plan regularly to ensure that I am actively working toward the required interpreter certification.

Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

SIDE LETTER AGREEMENT
BY & BETWEEN
LINDSAY UNIFIED SCHOOL DISTRICT
AND
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 438
DAVID MASHTAL

The Lindsay Unified School District ("District") and the California School Employees Association, Lindsay Chapter 438 ("CSEA") (collectively referred to herein as "the Parties") have met and conferred regarding Educational Interpreters, who perform the function of interpreting for deaf and/or hard of hearing students, to be employed by the District for the 2011/2012 school year. The Parties hereby enter into this Side Letter Agreement ("Agreement") on the following terms:

WHEREAS, the California Department of Education ("CDE") mandates that all employees who perform interpreting for deaf and/or hard of hearing students meet specific requirements set forth in California Code of Regulations, title 5, section 3051.16, subdivision (b)(3); and

WHEREAS, this Regulation requires that Educational Interpreters be certified by the Registry of Interpreters for the Deaf or its equivalent, or have passed certain interpreter assessments; and

WHEREAS, the District is in the process of applying to CDE for a waiver of this certification requirement for the 2011/2012 school year for all Educational Interpreters for deaf and/or hard of hearing pupils who do not meet the certification requirement; and

WHEREAS, in order to obtain the CDE waiver, the District must show that the Educational Interpreters are in an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements; and

WHEREAS, the waiver also requires the Educational Interpreter to acknowledge he/she understands that if he/she fails to complete the certification requirements or successfully complete the Individual Remediation Plan he/she will be subject to termination from employment.

NOW, THEREFORE, CSEA and the District agree as follows:

1. While the waiver application is in progress the District will employ Educational Interpreters as "probationary" employees, effective July 1, 2011 through June 30, 2012.

2. For the 2011/2012 school year each Educational Interpreter will be placed on an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements.

3. Any Educational Interpreter who fails to meet certification requirements by June 30, 2012 shall be released from employment with the District on the basis of failing to successfully complete his/her probationary period.

4. Any Educational Interpreter who did not successfully complete the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year shall not be entitled to reemployment with the District as an Educational Interpreter for the 2012/2013 school year.

5. The District shall apply for waivers for the 2012/2013 school year for each Educational Interpreter that satisfactorily completed the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year. These Educational Interpreters will be offered employment for the 2012/2013 school year on the condition of waiver approval by CDE. The reemployed Educational Interpreters will be probationary employees and shall not receive credit toward permanent status for service during the 2011/2012 school year. If a request for a waiver is denied, the Educational Interpreter will be released from employment as a probationary employee who did not successfully complete his/her probationary period.

6. Any Educational Interpreter who meets the certification requirements during the 2011/2012 school year shall be retained as a District employee dependent upon successful completion of the one year probationary period.

7. If in any subsequent school year additional waivers are requested by the District from the CDE with regard to Educational Interpreters for deaf and/or hard of hearing pupils, the terms of this agreement shall be extended.

8. The undersigned Parties represent they have read and understand the terms of this Agreement and are authorized to execute this Agreement on behalf of their principals.

Lindsay Unified School District:	CSEA Chapter 438:
Andrew Bukosky, Assistant Superintendent	**Freddy Martinez, CSEA President**
Date: _____	**Date: _____**

I hereby acknowledge receipt of a copy of this "Side Letter Agreement". I further acknowledge my understanding and agree to the terms herein.

Employee Printed Name	**Employee Signature**
Date: _____	

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **__Nicholas Cervantes_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 7/14/11

   Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Washington Elementary School Site Council

   Date the committee/council reviewed the waiver request: 7/11/11

   Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **EIPA, 6/29/11, Overall Recommendation: Hire with caution/supervision, Full EIPA Assessment within 1 year of employment/ Not recommended for employment**
2. Copy of the latest Test Certification page: **Attached**
3. Name, dates and scores of previous assessments **N/A**
4. Date of hire **May 10, 2011**
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16(b)(3) and 3065, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ES SEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. As a condition for waiver approval, a remediation plan must be in place and evidence must be submitted to prove that the educational interpreter is making satisfactory progress towards meeting certification requirements.

I understand that I do not meet the standard for educational interpreters as outlined above and in order to become a certified educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ RID National Certification

Score 4.0 or above on one of the following assessments:

☐ EIPA ☒ ESSE-I/R ☐ NAD/ACCI

Actions I will take to complete the above requirements:
(Describe your plan)

☒ Take the test preparation interpreter course offered by Cypress College on:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Participate in district sponsored staff development for interpreter test preparation led by the certified lead educational interpreter and supervised by the Director of Special Education.
Date(s): Each Wednesday during district-wide staff development time.

☒ Participate in monthly meetings with the Director of Special Education and Principal to review educational interpreter effectiveness and improvement of educational interpreter skills.
Date(s): Unknown at this time, TBD with Principal

☒ Participate in supplemental educational interpreter training workshops as directed by the Director of Special Education.
Date(s): Unknown at this time, TBD

☒ Take on-line opportunities for Interpreter Trainings:
Date(s): Unknown at this time, TBD

☒ Meet with mentor for individualized coaching on a weekly basis:
Mentor Signature: Unknown at this time, TBD

☒ Use/work with resources offered at Tulare County Office of Education/ Deaf and Hard of Hearing Service Center:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Take the ESSE-I/R assessment before the last day of school as sponsored by Tulare County Office of Education on:
Date: Unknown at this time, TBD

I further understand that the Director of Special Education and I will discuss my Certification Remediation Plan regularly to ensure that I am actively working toward the required interpreter certification.

Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

SIDE LETTER AGREEMENT
BY & BETWEEN
LINDSAY UNIFIED SCHOOL DISTRICT
AND
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 438
NICHOLAS CERVANTES

The Lindsay Unified School District ("District") and the California School Employees Association, Lindsay Chapter 438 ("CSEA") (collectively referred to herein as "the Parties") have met and conferred regarding Educational Interpreters, who perform the function of interpreting for deaf and/or hard of hearing students, to be employed by the District for the 2011/2012 school year. The Parties hereby enter into this Side Letter Agreement ("Agreement") on the following terms:

WHEREAS, the California Department of Education ("CDE") mandates that all employees who perform interpreting for deaf and/or hard of hearing students meet specific requirements set forth in California Code of Regulations, title 5, section 3051.16, subdivision (b)(3); and

WHEREAS, this Regulation requires that Educational Interpreters be certified by the Registry of Interpreters for the Deaf or its equivalent, or have passed certain interpreter assessments; and

WHEREAS, the District is in the process of applying to CDE for a waiver of this certification requirement for the 2011/2012 school year for all Educational Interpreters for deaf and/or hard of hearing pupils who do not meet the certification requirement; and

WHEREAS, in order to obtain the CDE waiver, the District must show that the Educational Interpreters are in an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements; and

WHEREAS, the waiver also requires the Educational Interpreter to acknowledge he/she understands that if he/she fails to complete the certification requirements or successfully complete the Individual Remediation Plan he/she will be subject to termination from employment.

NOW, THEREFORE, CSEA and the District agree as follows:

1. While the waiver application is in progress the District will employ Educational Interpreters as "probationary" employees, effective July 1, 2011 through June 30, 2012.

2. For the 2011/2012 school year each Educational Interpreter will be placed on an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements.

3. Any Educational Interpreter who fails to meet certification requirements by June 30, 2012 shall be released from employment with the District on the basis of failing to successfully complete his/her probationary period.

4. Any Educational Interpreter who did not successfully complete the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year shall not be entitled to reemployment with the District as an Educational Interpreter for the 2012/2013 school year.

5. The District shall apply for waivers for the 2012/2013 school year for each Educational Interpreter that satisfactorily completed the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year. These Educational Interpreters will be offered employment for the 2012/2013 school year on the condition of waiver approval by CDE. The reemployed Educational Interpreters will be probationary employees and shall not receive credit toward permanent status for service during the 2011/2012 school year. If a request for a waiver is denied, the Educational Interpreter will be released from employment as a probationary employee who did not successfully complete his/her probationary period.

6. Any Educational Interpreter who meets the certification requirements during the 2011/2012 school year shall be retained as a District employee dependent upon successful completion of the one year probationary period.

7. If in any subsequent school year additional waivers are requested by the District from the CDE with regard to Educational Interpreters for deaf and/or hard of hearing pupils, the terms of this agreement shall be extended.

8. The undersigned Parties represent they have read and understand the terms of this Agreement and are authorized to execute this Agreement on behalf of their principals.

Lindsay Unified School District:	CSEA Chapter 438:
Andrew Bukosky, Assistant Superintendent	**Freddy Martinez, CSEA President**
Date: _____	**Date: _____**

I hereby acknowledge receipt of a copy of this "Side Letter Agreement". I further acknowledge my understanding and agree to the terms herein.

Employee Printed Name	**Employee Signature**
Date: _____	

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**
   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **__Kurt Graves_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 7/14/11

   Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Washington Elementary School Site Council

   Date the committee/council reviewed the waiver request: 7/11/11

   Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **EIPA, 6/29/11, Overall Recommendation: Not recommended for employment**
2. Copy of the latest Test Certification page: **Attached**
3. Name, dates and scores of previous assessments **N/A**
4. Date of hire **December 14, 2010**
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

Effective July 1, 2009 as required by CA Code of Regulations, Sections 3051.16(b)(3) and 3065, an educational interpreter shall be certified by the national RID; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ES SEI/R, or the NAD/ACCI assessment.

If an educational interpreter has not met the standard, the district may apply for a one year waiver on their behalf. As a condition for waiver approval, a remediation plan must be in place and evidence must be submitted to prove that the educational interpreter is making satisfactory progress towards meeting certification requirements.

I understand that I do not meet the standard for educational interpreters as outlined above and in order to become a certified educational interpreter, I must meet one of the following options:
(Check assessment you plan on taking.)

☐ RID National Certification

Score 4.0 or above on one of the following assessments:

☐ EIPA ☒ ESSE-I/R ☐ NAD/ACCI

Actions I will take to complete the above requirements:
(Describe your plan)

☒ Take the test preparation interpreter course offered by Cypress College on:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Participate in district sponsored staff development for interpreter test preparation led by the certified lead educational interpreter and supervised by the Director of Special Education.
Date(s): Each Wednesday during district-wide staff development time.

☒ Participate in monthly meetings with the Director of Special Education and Principal to review educational interpreter effectiveness and improvement of educational interpreter skills.
Date(s): Unknown at this time, TBD with Principal

☒ Participate in supplemental educational interpreter training workshops as directed by the Director of Special Education.
Date(s): Unknown at this time, TBD

☒ Take on-line opportunities for Interpreter Trainings:
Date(s): Unknown at this time, TBD

☒ Meet with mentor for individualized coaching on a weekly basis:
Mentor Signature: Unknown at this time, TBD

☒ Use/work with resources offered at Tulare County Office of Education/ Deaf and Hard of Hearing Service Center:
Date(s): Fall 2011/Spring 2012 Semesters

☒ Take the ESSE-I/R assessment before the last day of school as sponsored by Tulare County Office of Education on:
Date: Unknown at this time, TBD

I further understand that the Director of Special Education and I will discuss my Certification Remediation Plan regularly to ensure that I am actively working toward the required interpreter certification.

Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

SIDE LETTER AGREEMENT
BY & BETWEEN
LINDSAY UNIFIED SCHOOL DISTRICT
AND
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 438
KURT GRAVES

The Lindsay Unified School District ("District") and the California School Employees Association, Lindsay Chapter 438 ("CSEA") (collectively referred to herein as "the Parties") have met and conferred regarding Educational Interpreters, who perform the function of interpreting for deaf and/or hard of hearing students, to be employed by the District for the 2011/2012 school year. The Parties hereby enter into this Side Letter Agreement ("Agreement") on the following terms:

WHEREAS, the California Department of Education ("CDE") mandates that all employees who perform interpreting for deaf and/or hard of hearing students meet specific requirements set forth in California Code of Regulations, title 5, section 3051.16, subdivision (b)(3); and

WHEREAS, this Regulation requires that Educational Interpreters be certified by the Registry of Interpreters for the Deaf or its equivalent, or have passed certain interpreter assessments; and

WHEREAS, the District is in the process of applying to CDE for a waiver of this certification requirement for the 2011/2012 school year for all Educational Interpreters for deaf and/or hard of hearing pupils who do not meet the certification requirement; and

WHEREAS, in order to obtain the CDE waiver, the District must show that the Educational Interpreters are in an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements; and

WHEREAS, the waiver also requires the Educational Interpreter to acknowledge he/she understands that if he/she fails to complete the certification requirements or successfully complete the Individual Remediation Plan he/she will be subject to termination from employment.

NOW, THEREFORE, CSEA and the District agree as follows:

1. While the waiver application is in progress the District will employ Educational Interpreters as "probationary" employees, effective July 1, 2011 through June 30, 2012.

2. For the 2011/2012 school year each Educational Interpreter will be placed on an "Individual Remediation Plan" designed to assist the Educational Interpreter in meeting the certification requirements.

3. Any Educational Interpreter who fails to meet certification requirements by June 30, 2012 shall be released from employment with the District on the basis of failing to successfully complete his/her probationary period.

4. Any Educational Interpreter who did not successfully complete the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year shall not be entitled to reemployment with the District as an Educational Interpreter for the 2012/2013 school year.

5. The District shall apply for waivers for the 2012/2013 school year for each Educational Interpreter that satisfactorily completed the requirements of his/her "Individual Remediation Plan" during the 2011/2012 school year. These Educational Interpreters will be offered employment for the 2012/2013 school year on the condition of waiver approval by CDE. The reemployed Educational Interpreters will be probationary employees and shall not receive credit toward permanent status for service during the 2011/2012 school year. If a request for a waiver is denied, the Educational Interpreter will be released from employment as a probationary employee who did not successfully complete his/her probationary period.

6. Any Educational Interpreter who meets the certification requirements during the 2011/2012 school year shall be retained as a District employee dependent upon successful completion of the one year probationary period.

7. If in any subsequent school year additional waivers are requested by the District from the CDE with regard to Educational Interpreters for deaf and/or hard of hearing pupils, the terms of this agreement shall be extended.

8. The undersigned Parties represent they have read and understand the terms of this Agreement and are authorized to execute this Agreement on behalf of their principals.

Lindsay Unified School District:	CSEA Chapter 438:
Andrew Bukosky, Assistant Superintendent	**Freddy Martinez, CSEA President**
Date: _____	**Date: _____**

I hereby acknowledge receipt of a copy of this "Side Letter Agreement". I further acknowledge my understanding and agree to the terms herein.

Employee Printed Name	**Employee Signature**
Date: _____	

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	9	9	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lindsay Unified School District	Suzzane Terrill	sterrill@lindsay.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
371 E. Hermosa	Lindsay	CA	93247	(559) 562-5111 Ext#5145 Fax Number: (559) 562-1579

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 8/1/11 To: 6/30/12	July 11, 2011	July 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

   Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
   Name of Interpreter: **__Alex Cervantes_____**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 7/14/11

   Name of bargaining unit and representative(s) consulted: CA School Employees Association, Freddy Martinez, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Washington Elementary School Site Council

   Date the committee/council reviewed the waiver request: 7/11/11

   Were there any objection(s)? No _XX__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

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7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI) **EIPA, 6/28/11, Overall Recommendation: Hire with caution/supervision, Full EIPA Assessment within 1 year of employment.**
2. Copy of the latest Test Certification page: **Attached**
3. Name, dates and scores of previous assessments **N/A**
4. Date of hire **February 15, 2011**
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)*__ has a student population of _4,036_____ and is located in a _small town _(*urban, rural, or small city etc.)*__ in __Tulare___ County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

EDUCATIONAL INTERPRETER

Certification Remediation Plan (2011-12)

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Date(s): Unknown at this time, TBD with Principal

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Mentor Signature: Unknown at this time, TBD

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Date(s): Fall 2011/Spring 2012 Semesters

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Date: Unknown at this time, TBD

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Employee (Print Name)	Signature	Date
Administrator (Print Name)	Signature	Date
Administrator Title		

Return a copy of this document to the Human Resources Department

SIDE LETTER AGREEMENT
BY & BETWEEN
LINDSAY UNIFIED SCHOOL DISTRICT
AND
CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 438
ALEX CERVANTES

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8. The undersigned Parties represent they have read and understand the terms of this Agreement and are authorized to execute this Agreement on behalf of their principals.

Lindsay Unified School District:	CSEA Chapter 438:
Andrew Bukosky, Assistant Superintendent	**Freddy Martinez, CSEA President**
Date: _____	**Date: _____**

I hereby acknowledge receipt of a copy of this "Side Letter Agreement". I further acknowledge my understanding and agree to the terms herein.

Employee Printed Name	**Employee Signature**
Date: _____	

ITEM #W-13

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by four local educational agencies to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act. Waiver Numbers: Cutler-Orosi Joint Unified 126-2-2011 Dinuba Unified 53-3-2011 Dinuba Unified 54-3-2011 Mountain Empire Unified 37-3-2011 Planada Elementary 61-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

See Attachments 1, 3, 6, and 8 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the September 2011 State Board of Education (SBE) Meeting, the California Department of Education (CDE) Waiver Office presented 11 Teacher Experience Index (TEI) waivers related to the Quality Education Investment Act (QEIA) to the SBE. At the direction of the SBE, all TEI waivers were postponed pending further review. If the SBE fails to take action on this waiver request at this meeting, the request is deemed approved for one year pursuant to *EC* Section 33052 and there will be no conditions on such approvals.

SUMMARY OF KEY ISSUES

Teacher Experience Index

Schools participating in the QEIA Program were monitored by their county offices of education for compliance with program requirements, including TEI, for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. At the end of the 2009–10 school year, QEIA LEAs were required to demonstrate two-thirds progress toward full program implementation.

QEIA schools are required to include an index based on the 2005–06 California Basic Educational Data System Professional Assignment Information Form as the base-

reporting year to evaluate annual improvements of funded schools toward balancing the

SUMMARY OF KEY ISSUES (Cont.)

index of teacher experience. Approved by the district superintendent, the index is an aggregate indicator of the teaching experience on a scale of one to ten. QEIA schools are required to have a TEI equal to or exceeding the average for the school district for this type of school and maintain or exceed this experience level for the duration of funding.

If an LEA requests a waiver of the TEI, the CDE reviews a range of information regarding the unique circumstances of the school and the LEA when formulating a recommendation to the SBE.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR/TEI targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Cutler-Orosi Joint Unified School District Request for a Quality Education Investment Act Teacher Experience Index Waiver 126-2-2011 (2 pages)

Attachment 2: Cutler-Orosi Joint Unified School District General Waiver Request 126-2-2011 (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

ATTACHMENT(S) (Cont.)

Attachment 3: Dinuba Unified District Request for a Quality Education Investment Act Teacher Experience Index Waiver 53-3-2011 and 54-3-2011 (2 pages)

Attachment 4: Dinuba Unified District General Waiver Request 53-3-2011 (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Dinuba Unified District General Waiver Request 54-3-2011 (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 6: Mountain Empire Unified School District Request for a Quality Education Investment Act Teacher Experience Index Waiver 37-3-2011 (2 pages)

Attachment 7: Mountain Empire Unified School District General Waiver Request 37-3-2011 (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 8: Planada Elementary School District Request for a Quality Education Investment Act Teacher Experience Index Waiver 61-2-2011 (2 pages)

Attachment 9: Planada Elementary School District General Waiver Request 61-2-2011 (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Waiver Number: 126-2-2011 **Period of Request:** July 1, 2010, to June 29, 2011
El Monte Middle School
Cutler-Orosi Joint Unified School District 54-71860

LEA Request:

Cutler-Orosi Joint Unified School District (JUSD) is a rural school district located in Tulare County. El Monte middle school (MS) serves students in grades six through eight. Cutler-Orosi JUSD has a student population of approximately 4,100 students. Cutler-Orosi JUSD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Cutler-Orosi JUSD TEI is 7.2. Cutler-Orosi JUSD's average TEI for 2010–11 for this type of school is 5.9.

Cutler-Orosi JUSD states that as a result of the state's fiscal crisis, steps were taken to reduce expenditures which included early retirement incentives to senior teaching staff. Four teachers with over 20 years experience took advantage of the incentives and left El Monte MS. In addition, six teachers, some with the maximum experience level, resigned for various reasons. During this same period, Cutler-Orosi JUSD entered into the District Assistance and Intervention Team Program which ultimately led to a number of teachers not being rehired in an effort to strengthen the District's instructional program and student achievement. Being a small, isolated rural district makes it difficult to recruit experienced teachers who often lose salary advantages when they change districts. Layoffs by other districts during this financial crisis have resulted in an increase in the number of candidates available. However, due to the seniority rule in layoffs, these teachers do not have high experience levels. Cutler-Orosi JUSD requests a waiver of the QEIA TEI target for El Monte MS and establishment of an alternative TEI target of 5.9 which is based on 2010–11 TEI levels.

Additional LEA and School Information for Consideration:

School Locale Code	32*
LEA Average Daily Attendance (ADA)	4,100
School ADA	922
Grade Span	6–8
Total Number Of Schools With Similar Grade Span	Only MS
2005–06 TEI	7.2
2010–11 QEIA School TEI	5.9
2010–11 Similar Type School TEI	Only MS
Percent Of Similar Type School	Only MS
Made API Growth?	Yes
Made AYP?	No

*Town Distant: Territory inside an urban cluster that is more than 10 miles and less than or equal to 35 miles from an urbanized area.

CDE Recommendation and Conditions:

The California Department of Education (CDE) supports Cutler-Orosi JUSD's request to reduce its TEI target for El Monte MS. Cutler-Orosi JUSD is located in rural Tulare County and has no other school with a similar grade span, and the school has an average daily attendance less than 1,000 students and has met the QEIA Academic Performance Index growth requirement.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at El Monte MS; (2) El Monte MS maintain the TEI at the school level to 5.9 or greater in the 2010–11 school year; (3) For 2010–11, El Monte MS must meet or exceed the district average TEI for this type of school; and (4) Within 30 days of approval of this waiver, Cutler-Orosi JUSD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by El Monte Schoolsite Council and English Language Advisory Committee on March 3, 2011.

Supported by Cutler-Orosi Unified Teachers, December 10, 2010, and California School Employees Association, March 10, 2011.

Local Board Approval: January 13, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	1	8	6	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Cutler-Orosi Joint Unified School District	**Craig Drennan** **Assistant Superintendent**	**cbdrennan@cojusd.org**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
12623 Avenue 416	**Orosi**	**CA**	**93647**	**559-528-4763** Fax Number: **559-528-3132**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2010** To: **June ~~30~~ 29, 2011**	**January 13, 2011**	**January 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **portions of 52055.740(a) jb 3/10/11** Circle One: *EC*
   Topic of the waiver: **QEIA Teacher Experience Index (TEI)**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **December 10, 2010 – Cutler-Orosi UTA**
   March 10, 2011 - CSEA
   Name of bargaining unit and representative(s) consulted: **Al Reyes, President, Cutler-Orosi Unified Teachers Association; Jessie Hureta Jr., President California School Employees Association**
   jb 3/10/11
   The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper **_X__** Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   El Monte School Site Council and English Language Advisory Committee per Craig Drennan jb 3/10/11
   Date the committee/council reviewed the waiver request: The School Site Council had a discussion about QEIA and its issues but the specific items were not itemized on the agenda. This waver will be specifically identified on an agenda in a meeting held on March 3, 2011.

   Were there any objection(s)? No **_X__** Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Education Code 52055.740 (a)

(~~4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

El Monte Middle School is part of the Cutler-Orosi Joint Unified School District, which is a small, isolated, rural district on the northernmost edge of Tulare County. El Monte Middle School is the only school in the District that houses the 6th through 8th grade student population. Aside from its alternative education schools, the District consists of three elementary schools, one middle school and one high school. All of the schools are in Program Improvement (PI). The middle school is in the QEIA program; as well as two of the three elementary schools.

The County QEIA Monitor takes the calculation of the Teacher Experience Index (TEI) from the District using the QEIA Tech Center worksheet. The TEI was set by the state from CBEDS information in the 05-06 school year. At this time the financial condition of the state and the schools was still fairly good and major reductions had not taken place. The TEI for El Monte Middle School came out to be 7.2 on a scale with 10 as the maximum. This was the TEI for the other schools in the District who are also in the QEIA program. It should be noted that the school had recently converted from a junior high school to a middle school. All 6th grade students now attend the middle school, bringing with them a core of relatively new teachers. In addition, the instructional delivery method for the entire 7th grade, as well as some of the 8th grade, changed from a departmentalized instructional setting into a core subject instructional setting. This required that many new teachers be hired to staff the school.

As the state's fiscal crisis impacted the District, the District took steps to reduce expenditures. One method that was utilized was to offer a retirement incentive program to its senior teaching staff. In the 2008-09 school year, sixteen teachers took advantage of the offer and left the District. Four of these teachers left El Monte Middle School; each had more than twenty years of experience. In the 2009-10 school year, another twenty-year, veteran teacher retired from the same middle school. In addition to the retirees an additional six teachers, some with the maximum experience level available, resigned from El Monte Middle School/District for various personal reasons.

During this same period, the District entered into the DAIT program. The District took its obligations under DAIT, to work diligently to improve student achievement, very seriously. An improved system of teacher evaluations was implemented. The evaluation process led to a number of teachers, who had several years of experience, being non-reelected to the District in its efforts to strengthen its instructional program.

As part of the DAIT program, the District's outside evaluators had the District add intervention teachers to strengthen student achievement. Additionally, the District pulled talented teachers from each school to act as academic coaches in the areas of mathematics, language arts and English language development. These coaches worked directly with teachers to reinforce the implementation of proven research based instructional strategies. Following these DAIT plan recommendations had the net effect of helping to lower the TEI.

In order to maintain a TEI, teachers who retire must be replaced by teachers with the same or greater level of experience. Mathematically, when additional teaching staff is hired, that new staff member would have to have an experience level that is equal to or greater than the school's TEI. As more teachers are hired to meet DAIT goals and student needs, the negative impact on the TEI is increased.

Example:

	Base year experience and TEI	Additional staff with **same** experience	Additional staff with **less** experience
Teacher A	10	10	10
Teacher B	8	8	8
Teacher C	6	6	6
Additional Staff	-	8	6
TEI	8	8	7.5

Being a small, isolated, rural district makes it difficult to recruit experienced teachers who often lose salary advantages when they change districts. Layoffs by other districts during this financial crisis have resulted in an increase in the number of candidates available. However, due to the seniority rule in layoffs, these teachers do not have high experience levels. Being a small district, with all of its schools in PI, there is no source of senior teachers to transfer, that would not harm the improvement needs of the individual schools.

The District believes that the TEI should be waived at El Monte Middle School. The school has made gains in its test scores over the last three years, which have included reaching "safe harbor" in language arts. The District has brought in a new principal for the middle school, hired academic coaches to assist staff in instructional methodology and used QEIA and Title I funds to provide significant targeted professional development. The District continues to aggressively evaluate its teachers and uses data to support its instructional program. The loss of QEIA funds would significantly reduce the resources available to continue the school on its upward trend. Loss of funding would mean an increase in class size and loss of professional development and instructional improvement resources for teachers, which would severely effect student achievement.

8. Demographic Information:
Cutler-Orosi Joint Unified, El Monte Middle School has a student population of 922 and is located in a rural unincorporated area in Tulare County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ■ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ■ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Assistant Superintendent**	Date: **February 25, 2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 53-3-2011 and 54-3-2011
Period of Request: July 1, 2010, to June 29, 2012
Wilson Elementary School
Jefferson Elementary School
Dinuba Unified School District 54-75531

LEA Request:

Dinuba Unified School District (USD) is an urban fringe school district located in Tulare County. Wilson Elementary School (ES) and Jefferson Elementary School (ES) serve students in kindergarten through grade five. Dinuba USD has a student population of 5,984 students. Dinuba USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Dinuba USD TEI is 8.1. Dinuba USD's average TEI for 2010–11 for this type of school is 7.79.

Dinuba USD states that to deal with budgeting issues, retirement incentives were offered to encourage experienced teachers to retire. In fully implementing QEIA class size reduction (CSR) requirements, all QEIA schools recruited teachers that had less experience than existing teachers. In addition, the teacher transfer articles of the collecting bargaining agreements limit teacher assignment options, making the transfer of more experienced teachers to the QEIA schools difficult. The results are that the CSR requirements of the QEIA program have been met for QEIA schools in 2010–11, but hiring less experienced teachers has created the schools' inability to meet the established TEI requirement. Dinuba USD requests a waiver of the QEIA TEI target for Wilson ES and Jefferson ES and establishment of alternative TEI targets of 7.7, and 7.5, respectively, which are based on 2010–11 TEI levels. The 2010–11 TEI alternative targets of 7.7 and 7.5 are less than Dinuba USD's 2010–11 TEI average of 7.79 for similar schools.

Additional LEA and School Information for Consideration:

School Name	Wilson ES	Jefferson ES
School Locale Code	32*	32*
LEA Average Daily Attendance (ADA)	5,984	5,984
School ADA	483	611
Grade Span	K–5	K–5
Total Number Of Schools With Similar Grade Span	5 elementary	5 elementary
2005–06 TEI	8.1	8.1
2010–11 QEIA School TEI	7.7	7.5
2010–11 Similar Type School TEI	7.79	7.79
Percent Of Similar Type School	98.8	96.3
Made API Growth?	Yes	Yes
Made AYP?	Yes	Yes

*Town Distant: Territory inside an urban cluster that is more than 10 miles and less than or equal to 35 miles from an urbanized area.

CDE Recommendation and Conditions:

The California Department of Education (CDE) supports Dinuba USD's request to reduce its TEI target. Dinuba USD is located in rural Tulare County, has an average daily attendance fewer than 6,000 students, and has three other schools with a similar grade span, and the schools have met the QEIA Academic Performance Index growth requirement.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Wilson ES and Jefferson ES; (2) Wilson ES and Jefferson ES maintain the average TEI at the school level to 7.7 and 7.5, respectively, or greater in the 2010–11 school year; (3) Throughout the term of this waiver, Wilson ES and Jefferson ES must meet or exceed the district average TEI for this type of school; and (4) Within 30 days of approval of this waiver, Dinuba USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by Wilson Elementary Schoolsite Council on March 7, 2011, and Jefferson Elementary Schoolsite Council on March 10, 2011.

Supported by Dinuba Teachers Association on March 16, 2011, and California School Employees Association on March 19, 2011.

Local Board Approval: March 8, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	5	5	3	1

Local educational agency: Wilson School CDS: 54 - 75531 – 6054001 Dinuba Unified School District	Contact name and Title: Paul Rogers Assistant Superintendent	Contact person's e-mail address: progers@dinuba.k12.ca.us
Address: (City) (State) (ZIP) 305 East Kamm Avenue Dinuba CA 93618 1327 E. El Monte Way Dinuba CA 93618		Phone (and extension, if necessary): (559) 595-7200 ext 295 Fax Number: (559) 591-3334
Period of request: (month/day/year) From: July 1, 2010 To: ~~June 30, 2011~~ June 29, 2012	Local board approval date: (Required) March 24, 2011	Date of public hearing: (Required) March 24, 2011 (Attachment E)

Jb 8/23/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) (4) Circle One: (*EC*) or *CCR*

   Topic of the waiver: Teacher Experience Index Quality Education Investment Act

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _ No _×_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Dinuba Teachers Association DTA/CTA
   California ~~Classified~~ School Employees Association (CSEA) kk 3/30/2011
   Name of bargaining unit and representative(s) consulted: Rich White, President, Dinuba Teachers Association
   Sage Clark, President Dinuba Chapter # 152 CSEA

   The position(s) of the bargaining unit(s): __ Neutral × Support __ Oppose (*Please specify why*)

   Comments (if appropriate): ~~Letters attached (Attachment C)~~ **jb 6/2/11**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _ Notice in a newspaper _×_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Wilson School Site Council kk 3/30/2011

   Date the committee/council reviewed the waiver request: March 7, 2011 ~~(Attachment D)~~ kk 3/30/2011

   Were there any objection(s)? No × Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   EC 52055.740 (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:
   ~~(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.~~

   EC 52055.730 (d) On or before June 30, 2007, the Superintendent, in consultation with interested parties, shall develop a uniform process that can be used to calculate average experience for purposes of reporting, analyzing, or evaluating the distribution of classroom teaching experience in grades, schoolsites, or subjects across the district. The uniform process shall include an index that uses the 2005-06 California Basic Educational Data System (CBEDS) Professional Assignment Information Form (PAIF), including any necessary corrections, as the base-reporting year to evaluate annual improvements of the funded schools toward balancing the index of teaching experience. The index shall be approved by the Superintendent. The uniform process shall designate teaching experience beyond 10 years as 10 years.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   By 2010-2011, QEIA schools must ensure that their average level of teaching experience meets or exceeds the average level of teaching experience among all teachers at the same type of school in the district. The average level of teaching experience that QEIA schools must meet is based on the teaching experience levels reported by the district in 2005-2006. District average experience levels or "Teacher Experience Index Targets" were calculated and have remained constant. The Teacher Experience Index (TEI) for elementary schools in the Dinuba Unified School District is 8.1. The uniform process designates teaching experience beyond 10 years as 10 years.
   Wilson Elementary School is asking for a temporary waiver of this requirement in order to continue to benefit from the academic improvement that the QEIA grant has provided for the school. Wilson Elementary School is seeking a waiver of this requirement from 2010-2011 to the 2011-2012 school year. [See attached]

8. Demographic Information:
   Wilson School is a K-5 Elementary School. It has a student population of 483 students: 95% Hispanic, 4% White. All students qualify for Free or Reduced Lunch under Provision II. Over 56% of the students are English Learners.
   The school is located in the urban fringe of a mid-size city in northern Tulare County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
/s/Joe Hernandez	Superintendent	March 24, 2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
7. Desired outcome/rationale

Dinuba Unified School District and Wilson School have met a number of challenges in meeting the Teacher Experience Index. In 2005-2006, the District had an experienced elementary school staff and the calculated TEI was 8.1. Of the 120 Local Educational Agencies with reported TEI's only 10% have a TEI equal or greater than 8.1.

Average Teacher Experience Index (TEI) Wilson School	
District TEI Target (2005-2006)	8.1
Wilson School's base year TEI (2007-20080	7.7
Wilson School's target (2008-2009)	2.7
Wilson School's calculated TEI (2008-2009)	7.8
Wilson School's target (2009-2010)	5.4
Wilson School's calculated TEI (2009-2010)	7.0
Wilson School's target (2010-2011)	8.1
Wilson School's calculated TEI (2010-2011)	7.8

Several factors have impacted the school's ability to meet the TEI target of 8.1 years:

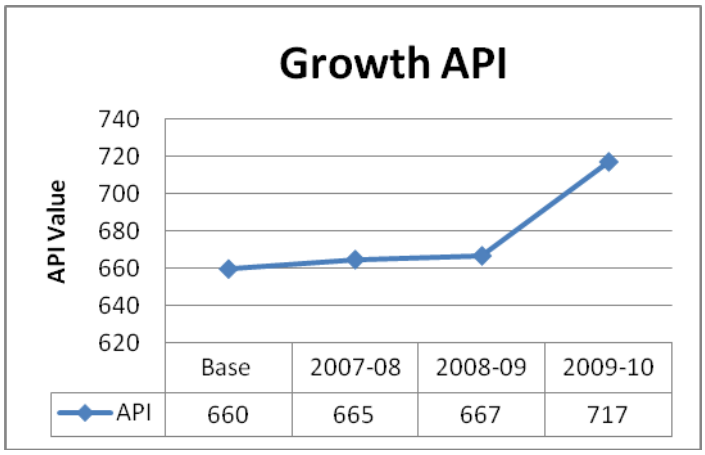
- In fully implementing the Class Size Reduction (CSR) Requirement, the school has recruited new teachers some of which have less experience. This has a negative effect on the teacher experience average. In taking the necessary steps to meet the CSR requirement, Wilson has created difficulties in meeting the TEI requirement**.**
- The teacher transfer articles of our collective bargaining agreement limit teacher assignment options. These articles make transferring teachers to Wilson Elementary School to meet the TEI target difficult.
- Dinuba Unified has six schools that qualify as elementary schools and contributed to the District TEI. Three of these schools or one half are QEIA schools.
- The QEIA funding was uncertain for a significant portion of the 2009-2010 school year forcing a delay in the hiring process.
- The District has provided retirement incentives to encourage experienced teachers to retire.
- Since 2005-2006 the District and Wilson Elementary School have experienced a number of retirements and change in status that has reduced our teacher experience value. If we calculate the District TEI value today for all our elementary schools, using the same calculation model, we would have a value of 7.79. ~~[Attachment A]~~ **jb 6/2/11**

The combination of new hires at Wilson Elementary School, difficulties in transferring experienced teachers, as well as retirements, has made it a challenge to meet the TEI requirement.

Wilson Elementary School has substantially met the following requirements at the previous benchmark years:

- Met the class size reduction requirements for full implementation 2010-2011.
- Teachers that are highly qualified as defined by federal requirements teach all classes. (100%)
- Forty hours of professional development provided to teachers. (100%)
- Professional development provided to paraprofessionals.
- Met all the requirements for the Williams settlement.
- Exceeded the API growth targets for the school averaged over the past three years.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
7. Desired outcome/rationale (Continued)



Year	Growth Target	Growth
2007-2008	7	5
2008-2009	7	5
2009-2010	7	49
	Average	19.6

The QEIA grant has provided the resources that have reduced class sizes, provided professional development to improve instruction, repaired facilities and increased student learning evidenced by a 49 point API growth this past year. Wilson Elementary School has made continuous improvement with the implementation of the QEIA grant. Baring retirement and illness the projection is that Wilson Elementary School will meet the TEI target of 8.1 in the 2011-2012 school year. ~~[Attachment B]~~ Wilson Elementary School will meet all the other QEIA stipulations for the 2010-2011 school year and is requesting a waiver of the TEI requirement for the 2010-2011school year.

jb 6/2/11

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	5	5	3	1

Local educational agency: Jefferson School CDS: 54 - 75531 – 6053979 Dinuba Unified School District	Contact name and Title: Paul Rogers Assistant Superintendent	Contact person's e-mail address: progers@dinuba.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
1660 E. Sierra Way	Dinuba	CA	93618	(559) 595-7200 ext 295
1327 E. El Monte Way	Dinuba	CA	93618	Fax Number: (559) 591-3334

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2010 To: ~~June 30, 2011~~ June 29, 2012	March 24, 2011	March 24, 2011 (Attachment E)

Jb 8/23/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) (4) Circle One: (*EC*) or *CCR*

   Topic of the waiver: Teacher Experience Index Quality Education Investment Act

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _ No _×_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): Dinuba Teachers Association DTA/CTA
   California ~~Classified~~ School Employees Association (CSEA) kk 3/30/2011
   Name of bargaining unit and representative(s) consulted: Rich White, President, Dinuba Teachers Association
   Sage Clark, President Dinuba Chapter # 152 CSEA

   The position(s) of the bargaining unit(s): __ Neutral × Support __ Oppose (*Please specify why*)

   Comments (if appropriate): ~~Letters attached (Attachment C)~~ **jb 6/2/11**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _ _ Notice in a newspaper _×_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Jefferson School Site Council Kak 3/30

   Date the committee/council reviewed the waiver request: March 10, 2011 ~~(Attachment D)~~ jb 6/2/11

   Were there any objection(s)? No ×_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   EC 52055.740 (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:
   ~~(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.~~

   EC 52055.730 (d) On or before June 30, 2007, the Superintendent, in consultation with interested parties, shall develop a uniform process that can be used to calculate average experience for purposes of reporting, analyzing, or evaluating the distribution of classroom teaching experience in grades, schoolsites, or subjects across the district. The uniform process shall include an index that uses the 2005-06 California Basic Educational Data System (CBEDS) Professional Assignment Information Form (PAIF), including any necessary corrections, as the base-reporting year to evaluate annual improvements of the funded schools toward balancing the index of teaching experience. The index shall be approved by the Superintendent. The uniform process shall designate teaching experience beyond 10 years as 10 years.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   By 2010-2011, QEIA schools must ensure that their average level of teaching experience meets or exceeds the average level of teaching experience among all teachers at the same type of school in the district. The average level of teaching experience that QEIA schools must meet is based on the teaching experience levels reported by the district in 2005-2006. District average experience levels or "Teacher Experience Index Targets" were calculated and have remained constant. The Teacher Experience Index (TEI) for elementary schools in the Dinuba Unified School District is 8.1. The uniform process designates teaching experience beyond 10 years as 10 years.
   Jefferson Elementary School is asking for a temporary waiver of this requirement in order to continue to benefit from the academic improvement that the QEIA grant has provided for the school. Jefferson Elementary School is seeking a waiver of this requirement from 2010-2011 to the 2011-2012 school year. [See attached]

8. Demographic Information:
   Jefferson School is a K-5 Elementary School. It has a student population of 611 students: 98% Hispanic, 1.5% White. All students qualify for Free or Reduced Lunch under Provision II. Over 67% of the students are English Learners.
   The school is located in the urban fringe of a mid-size city in northern Tulare County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
/s/Joe Hernandez	Superintendent	March 24, 2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

7. Desired outcome/rationale

Dinuba Unified School District and Jefferson School have met a number of challenges in meeting the Teacher Experience Index. In 2005-2006, the District had an experienced elementary school staff and the calculated TEI was 8.1. Of the 120 Local Educational Agencies with reported TEI's only 10% have a TEI equal or greater than 8.1.

Average Teacher Experience Index (TEI) Jefferson School

District TEI Target (2005-2006)	8.1
Jefferson School's base year TEI (2007-2008)	7.8
Jefferson School's target (2008-2009)	2.7
Jefferson School's calculated TEI (2008-2009)	7.8
Jefferson School's target (2009-2010)	5.4
Jefferson School's calculated TEI (2009-2010)	7.7
Jefferson School's target (2010-2011)	8.1
Jefferson School's calculated TEI (2010-2011)	7.6

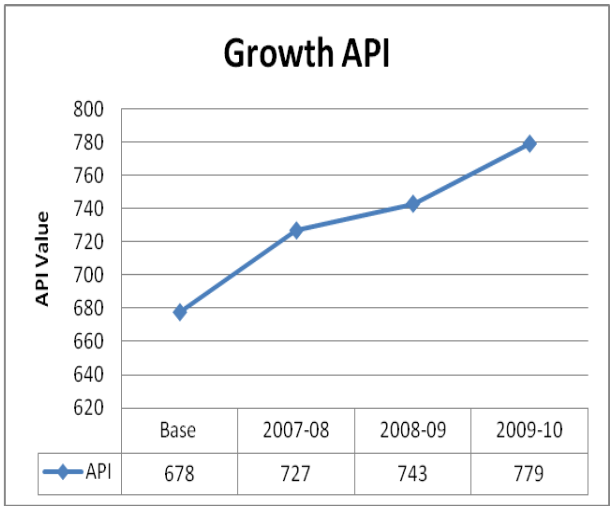
Several factors have impacted the school's ability to meet the TEI target of 8.1 years:

- In fully implementing the Class Size Reduction (CSR) Requirement, the school has recruited new teachers some of which have less experience. This has a negative effect on the teacher experience average. In taking the necessary steps to meet the CSR requirement, Jefferson has created difficulties in meeting the TEI requirement**.**
- The teacher transfer articles of our collective bargaining agreement limit teacher assignment options. These articles make transferring teachers to Jefferson Elementary School to meet the TEI target difficult.
- Dinuba Unified has six schools that qualify as elementary schools and contributed to the District TEI. Three of these schools or one half are QEIA schools.
- The QEIA funding was uncertain for a significant portion of the 2009-2010 school year forcing a delay in the hiring process.
- The District has provided retirement incentives to encourage experienced teachers to retire.
- Since 2005-2006 the District and Jefferson Elementary School have experienced a number of retirements and change in status that has reduced our teacher experience value. If we calculate the District TEI value today for all our elementary schools, using the same calculation model, we would have a value of 7.79 ~~[Attachment A]~~ **jb 6/2/11**

The combination of new hires at Jefferson Elementary School, difficulties in transferring experienced teachers, as well as retirements, has made it a challenge to meet the TEI requirement.

Jefferson Elementary School has substantially met the following requirements at the previous benchmark years:

- Met the class size reduction requirements for full implementation 2010-2011.
- Teachers that are highly qualified as defined by federal requirements teach all classes. (100%)
- Forty hours of professional development provided to teachers. (100%)
- Professional development provided to paraprofessionals.
- Met all the requirements for the Williams settlement.
- Exceeded the API growth targets for the school averaged over the past three years.



Year	Growth Target	Growth
2007-2008	6	49
2008-2009	5	21
2009-2010	5	36
	Average	35.3

The QEIA grant has provided the resources that have reduced class sizes, provided professional development to improve instruction, repaired facilities and increased student learning evidenced by a three year API growth average of 35.3 points per year. Jefferson Elementary School has made continuous improvement with the implementation of the QEIA grant, including exiting of Program Improvement at the conclusion of the 2009-2010 school year. Jefferson was one of just 10 in 1100 to exit Program Improvement Year 5 status, and the QEIA grant was one contributing factor. Barring retirement and illness the projection is that Jefferson Elementary School will meet the TEI target of 8.1 in the 2011-2012 school year. ~~[Attachment B]~~ Jefferson Elementary School will meet all the other QEIA stipulations for the 2010-2011 school year and is requesting a waiver of the TEI requirement for the 2010-2011 school year.

jb 6/2/11

Waiver Number: 37-3-2011 **Period of Request:** July 1, 2010, to June 29, 2012
Clover Flat Elementary School
Mountain Empire Unified School District 37-68213

LEA Request:

Mountain Empire Unified School District (USD) is a rural school district located in San Diego County. Clover Flat Elementary School (ES) serves students in grades two through eight. Mountain Empire USD has a student population of approximately 2,400 students. Mountain Empire USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Mountain Empire USD TEI is 7.2. Clover Flat ES is the only school in Mountain Empire USD with a grade configuration of two through eight, so no comparative TEI data is available for 2010–11.

Mountain Empire USD states that, because of its remote location and lack of desirable housing, hiring qualified experienced teachers is very difficult. Teachers generally work at Clover Flat ES for one or two years and move to a more desirable area. Mountain Empire USD has looked into the possibility of moving some experienced teachers from other schools, but this has been difficult due to morale and union issues. Mountain Empire USD requests a waiver of the QEIA TEI targets for Clover Flat ES and establishment of an alternative TEI target of 5.78, which is based on 2010–11 TEI levels.

Additional LEA and School Information for Consideration:

School Locale Code	43*
LEA Average Daily Attendance (ADA)	2,400
School ADA	158
Grade Span	2–8
Total Number Of Schools With Similar Grade Span	Only school
2005–06 TEI	7.6
2010–11 QEIA School TEI	5.78
2010–11 Similar Type School TEI	Only school
Percent Of Similar Type School	Only school
Made API Growth?	Yes
Made AYP?	Yes

*Rural Remote: Census-defined rural territory that is more than 25 miles from an urbanized area and is also more than 10 miles from an urban cluster.

CDE Recommendation and Conditions:

The California Department of Education (CDE) supports Mountain Empire USD's request to reduce its TEI target. Mountain Empire USD is located in rural San Diego County, has an average daily attendance less than 2,400 students, and has no other school with a similar grade span, and the school has met the QEIA Academic Performance Index growth requirement.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Clover Flat ES; (2) Clover Flat ES maintain the average TEI at the school level to 5.78 or greater in the 2010–11 school year; (3) Throughout the term of this waiver, Clover Flat ES must meet or exceed the district average TEI for this type of school; and (4) Within 30 days of approval of this waiver, Mountain Empire USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by Clover Flat Elementary Schoolsite Council on November 17, 2010.

Supported by Mountain Empire Teachers Association, February 4, 2011.

Local Board Approval: March 8, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	2	1	3

Local educational agency: **Mountain Empire Unified School District for Clover Flat Elementary**	Contact name and Title: **jb 4/1/11** Barbara Cowling, Principal **Steve Van Zant, Superintendent**	Contact person's e-mail address: bcowling@meusd.net
Address: (City) (State) (ZIP) 3291 Buckman Springs Road, Pine Valley, Ca 91962 **39639 Old Highway 80, Boulevard, Ca 91905**		Phone (and extension, if necessary): (619) 766-4655 Fax Number: (619) 766-4537
Period of request: (month/day/year) From: 8/1/2010 To: 6/~~30/2014~~ 29, 2012	Local board approval date: (Required) 3/8/11	Date of public hearing: (Required) 3/8/11

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* to be waived (number): EC 52055.740 Part 4 regarding Teacher Experience Index requirements under the Quality Education Investment Act, that the average teacher experience in this school be 7.6 years by the end of the 2010-2011 school year for Clover Flat Elementary School. Circle One: ***EC*** or *CCR*

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 2/4/11

Name of bargaining unit and representative(s) consulted: **Mountain Empire Teachers Association**
Mari Mann, **Union President** **kak 3/10/2011**

The position(s) of the bargaining unit(s): ___Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate): The representative supports keeping the QEIA grant but wants to work with administration to

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Clover Flat Elementary Schoosite Council **kak 3/18/11**

Date the committee/council reviewed the waiver request: November 17, 2010

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

following program requirements by the school by the end of the third full
year of fundi ng:

(4) ~~Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Clover Flat School is a small, rural school. There are only eight teachers plus a part-time resource teacher (RSP). While three of these teachers have more than 10 years experience (Ferguson – 22; Morris -15; Burton – 14), the other teachers have less experience than the teacher experience index of 7.5 years.

Clover Flat is situated in the small town of Boulevard, population 1454. Boulevard is approximately 35 miles from Alpine and 50 to El Centro, which are the closest towns to us. Boulevard is 65 miles from San Diego. This isolation, along with the lack of decent housing, recreation and other services, makes finding employees to work at our school very difficult. Teachers will work here one or two years, and move to a more desirable area. This year alone, the math position was offered to three teachers before we were able to find Mr. Goodson, who is our math teacher. There were several applicants for the fifth and second grade teacher positions open this year. Ms. Burton has 14 years of experience, who we were able to hire from Alpine but the second grade opening has a teacher with only two years of experience. The other applicants had even less experience.

The code states:

(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district ***for this type of school***.

When the formula was given for our TEI, the average was for the entire district, yet Clover Flat is not like other schools in the district, nor can it be compared to the other schools.

I am working with the superintendent to see if we can move some experienced teachers to our staff from other sites. This is difficult due to morale and union issues. Teachers in our district generally live in town and try to work in the school closest to their home, which can still be a long way away. The move to Boulevard would add many miles to their commute.

"In 2007-08 our TEI was 3.5, in 2008-09 our TEI was 5.0, in 2009-2010 our TEI was 5.5. Our projection of TEI for 2010-2011 is 5.78, which falls short of the 7.6 district average. Despite not meeting the TEI averages, Clover Flat continues to increase our TEI, is meeting CSR targets, has made academic growth as evidence of the API which has grown from 763 to 825 during the 3 years of the QEIA grant, and our staff capacity is building through our professional growth. The staff is committed to the work of the QEIA grant even though meeting TEI has been challenging.

Clover Flat Elementary School requests a waiver to not be held to the TEI of 7.6 years. This is a challenge that we cannot meet at this time."

8. Demographic Information:
(*District/school/program)_Clover Flat School* has a student population of 158 and is located in a rural area__ in _San Diego_ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Clover Flat Elementary School - QEIA Targets and Calculations of Class Size Averages in Recent Years

Up until the 2008-09 school year this school served only through 6th grade however starting in 2009-10 a 7th grade was be added, and 8th grade will add in 2010-11. The 7th grade target (below *) was derived from the only middle school in the district, Mountain Empire Middle School.

Class Sizes at Clover Flat Elementary School, 2005-06 – BASE YEAR

Grade level	**4**	**5**	**6**	**7**	**8**
Actual Class size	23	29	25	0	0
Statutory CSR Target	**18**	**24**	**20**	**17.7***	

(Average class size in grades 4 through 6 at PES in 2005-06: **28**)

Class Sizes at Clover Flat Elementary School, 2006-07

Grade level	**4**	**5**	**6**	**7**	**8**
Actual Class size	20	24	32	0	0

(Average class size in grades 4 through 6 at PES in 2006-07: **28**)

Class Sizes at Clover Flat Elementary School, 2007-08

Grade level	**4**	**5**	**4/5/6**	**6**	**7**	**8**
Actual Class size	20	19	12	19	0	0

(Average class size in grades 4 through 6 at PES in 2007-08: **17.5**)

Class Sizes at Clover Flat Elementary School, 2008-09

Grade level	**3/4**	**4/5**	**5**	**6**	**7**	**8**
Actual Class size	22	17	20.4	20	0	0

(Average class size in grades 3 through 6 at PES in 2008-09: **19.7**)

Class Sizes at Clover Flat Elementary School, 2009-10

Grade level	**4**	**4/5**	**5/6**	**6**	**7**	**8**
Actual Class size	21	23	19	22	20	0

(Average class size in grades 4 through 7 at PES in 2009-10: **21**)

Waiver Request:
Clover Flat Elementary School requests a waiver to not be held the TEI of 7.6 years. This is a challenge that we cannot meet at this time.

Waiver Number: 61-2-2011 **Period of Request:** July 1, 2010, to June 29, 2012
Planada Elementary School
Planada Elementary School District 24-65821

LEA Request:

Planada Elementary School District (ESD) is a rural school district located in Merced County. Planada Elementary School (ES) serves students in kindergarten through grade five. Planada ES has a student population of approximately 800 students. Planada ESD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Planada ESD TEI was 9.4. Planada ESD's average TEI for 2010–11 for this type of school is 7.56.

Planada ESD states that due to teacher attrition by retirements, it is unable to replace those vacancies with teachers that have years of experience equal to that of the retirees' average. Planada ESD has transferred the more experienced teachers that hold a multiple subject teaching credential from the middle school in order to sustain the TEI average. Additionally, all efforts were made to hire teachers with several years of experience to increase the TEI, but finding experienced teachers willing and able to commute to Planada ES has been difficult.

Planada ESD requests a waiver of the QEIA TEI target for Planada ES and establishment of an alternative TEI target of 7.8, which is based on 2010–11 TEI levels. The 2010–11 TEI alternative target of 7.8 for Planada ES is greater than Planada ESD's 2010–11 TEI average of 7.56 for this type of school.

Additional LEA and School Information for Consideration:

School Locale Code	31*
LEA Average Daily Attendance (ADA)	748
School ADA	500
Grade Span	K–8
Total Number Of Schools With Similar Grade Span	(1) 6-8
2005–06 TEI	9.4
2010–11 QEIA School TEI	7.8
2010–11 Similar Type School TEI	7.56
Percent Of Similar Type School	103.2
Made API Growth?	Yes
Made AYP?	No

*Town Fringe: Territory inside an urban cluster that is less than or equal to 10 miles from an urbanized area.

CDE Recommendation and Conditions:

The California Department of Education (CDE) supports Planada ESD's request to reduce its TEI target. Planada ESD is located in rural Merced County and has only one other school with a similar grade span, and the school has an average daily attendance fewer than 800 students and has met the QEIA Academic Performance Index growth requirement.

The CDE recommends approval with the following conditions: (1) Applies only to teachers at Planada ES; (2) Planada ES maintains the TEI at the school level to 7.8 or greater in the 2010–11 school year; (3) Throughout the term of this waiver, Planada ES must meet or exceed the district average TEI for this type of school; and (4) Within 30 days of approval of this waiver, Planada ESD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the TEI requirement.

Reviewed by Schoolsite Council and English Learner Advisory Council on February 14, 2011.

Supported by Planada Teachers Association, February 2, 2011

Local Board Approval: February 10, 2011

CALIFORNIA DEPARTMENT OF **EDUCATION**

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	4	6	5	8	2	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Planada Elementary School District Planada Elementary School	Jose L. Gonzalez, Superintendent Richard Lopez, Principal	jgonzalez@planada.org rlopez@planada.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
161 S. Plainsburg Rd.	Planada	CA	95365	209-382-0756
9525 E. Broderick	Planada	CA	95365	209-382-0272 ext. 104 Fax Number: 209-382-0113 209-382-1750

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
July 1, 2010 June 29, 2012 From: ~~August 1, 2010~~ To: ~~June 30, 2014~~	February 10, 2011	February 10, 2011

Jb 8/25/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): portions of 52055.740(a) Circle One: ***(EC)*** or *CCR*

   Topic of the waiver: PESD is resquesting that the Teacher Experience Index average be reduced due to attrition.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 2, 2011

   Name of bargaining unit and representative(s) consulted: Planada Teachers Association: Reno Martinelli, Sonia Alvarez, Gayle Besecker, and Danny Lema

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   The waiver request was presented to both the English Learner Advisory Council and the School Site Council.

   Date the committee/council reviewed the waiver request: February 14, 2011

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

QEIA requires that Planada Elementary School attain a target of 9.4 years of teaching experience to be compliant with the QEIA requirements for the 2010/11 – 2013/14 school years. Due to teacher attrition by either retirements or early retirement incentives (golden handshakes), the school is unable to replace those vacancies with teachers that have equal years of experience to that of the retirees' average. The Planada Elementary is requesting that its TEI be reduced to match the average of other QEIA schools or if that request is denied to have the TEI waived for the 2010/11 school year.
Please refer to the attachment for additional information.

8. Demographic Information:
Planada is a rural, unincorporated community of almost 4,000. It lies nine miles southeast of the City of Merced. Nearly 60% of Planada residents earn less than $30,000 per year and only 12.6% of the population is a high school graduate. The student population consists of 95.2% Hispanic and 2% Asian & Caucasian. English Learners consist of 57.8% of the population and 83.8% of the students receive free or reduced price meals.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent- Planada Elementary S.D.	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item # 7

Teacher Experience Index				
	PES District TEI	**PES TEI**	**# of teachers in TEI**	**State QEIA School's TEI**
2005-2006	**9.4**	**8.9**	**26**	**6.7**
2006-2007	**9.4**	**9.1**	**25**	**6.7**
2007-2008	**9.4**	**8.5**	**26**	**6.7**
2008-2009	**9.4**	**8.8**	**26**	**6.7**
2009-2010	**9.4**	**8.6**	**25**	**6.7**
2010-2011	**9.4**	**7.8**	**27**	**6.7**

2005- 2006 QEIA Base Year

2006-2007 Lost 1 teacher (9 years exp.) from 2005-06

2007-2008 Lost 4 teachers (2 with 30 years) (2 less than 5 years)
Gained 1 from the middle school with a M.S. Credential and 10 years exp.
Gained 4 teachers- 3 with 3 years exp and 1 with year exp.

2008-2009 Lost 1 teacher with 30 years experience
Gained 1 teacher from the middle school with a M.S. credential with 15 years exp.

2009-2010 Lost 1 teacher with 30 years exp.
Added librarian as a teacher with 1 year exp.

2010-2011 Lost 3 with 20+ years average exp.
Gained 5 teachers- 1 with 9 years exp., 1 with 4 years exp., 1 with 3 years exp., and 2 with 2 years exp.

Planada Elementary School is one of two schools in the Planada Elementary School District, comprised of Planada Elementary and Cesar E. Chavez Middle School. Planada is a rural town located approximately nine miles southeast of Merced, California. In our efforts to maintain our targeted TEI, we have lost several teachers due to retirements and have made every attempt to hire teachers with teaching experience. Aside from hiring experienced teachers, we have transferred all of the teachers from our middle school that hold a multiple subject teaching credential to sustain our TEI. Currently, all teachers at the middle school hold single subject credentials. Additionally, all efforts have been made to hire teachers with several years of experience to increase the TEI, but trying to find teachers with 5 – 10 years of teaching experience who are willing and able to commute out to our community has been difficult. In order to be compliant with the QEIA requirements, we continue to hire additional teachers to sustain required Class Size Reduction in Kindergarten - 3rd grades, and at the same time reduce 4th and 5th grades by at least 5 students per class. PES currently has five teachers with 20+ years of service who will be retiring within the next few years. Once again, we will see the impact on our TEI. Due to continued attrition, and the difficulties to hire teachers with years of experience, PES is requesting that our TEI target be reestablished at the 2010-2011 school year TEI of 7.8 years or allowed for the TEI to be set to match the average district TEI of QEIA schools across the state which is 6.7 years.

ITEM #W-14

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by Chualar Union Elementary School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act. Waiver Number: 2-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

See Attachment 1 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the September 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 53 waivers related to the Quality Education Investment Act (QEIA) to the SBE. Of that number:

- 33 were related to QEIA class size reduction (CSR) requirements: 27 were approved with conditions, 5 were denied, and 1 was postponed.
- 9 were related to adding new schools to the QEIA program: 2 were approved, 3 were approved with conditions, 2 were withdrawn, 1 was denied, and 1 no action was taken.
- 11 were relating to revising the Teacher Experience Index (TEI): 1 was withdrawn and 10 were postponed.

SUMMARY OF KEY ISSUES

Class Size Reduction

Schools participating in the Quality Education Investment Act (QEIA) were monitored by their county offices of education for compliance with program requirements, including class size reduction (CSR), for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

SUMMARY OF KEY ISSUES (Cont.)

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is ten students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

If an LEA requests a waiver of the CSR, the CDE reviews a range of information regarding the unique circumstances of the school and the LEA when formulating a recommendation to the SBE.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR/TEI targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting a Quality Education Investment Act Waiver Class Size Reduction – Approve with Conditions (1 page)

Attachment 2: Chualar Union School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Local Educational Agencies Requesting a Quality Education Investment Act Waiver Class Size Reduction – Approval with Conditions

Waiver Number	LEA for School(s) CD Code	SBE Stream-lined Waiver Policy or SSC Policy	LEA Request The LEA requests:	CDE Recommendation The CDE recommends approval with the following conditions:	Period of Request	Position/ Representative/ Collective Bargaining Unit/ Date Consulted	Advisory Committee or SSC/ Date Reviewed Request	Local Board Approval Date — Public Hearing Date
2-4-2011	Chualar Union School District (USD) for Chualar Elementary School (ES) 2765995	Does not meet	Reduce class sizes by an average of five students per class by the end of the 2010–11 and 2011–12 school years.	(1) This waiver applies only to classes at Chualar ES. (2) Chualar ES must reduce the average class size at the school level to 23.0 students per classroom in core classes in grade one, 22.0 in grade five, 25.0 in grade six, and 18.0 in grade eight in the 2010–11 school year. (3) Chualar ES must reduce the average class size at the school level to 23.0 students per classroom in core classes in kindergarten, grades one, two, three, five, seven and eight in the 2011–12 school year. (4) Within 30 days of approval of this waiver, Chualar USD must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the CSR requirement.	July 1, 2010 to June 29, 2012	Support Virginia Roach, Laura Berdahl, and Megan Kimble, California Teachers Association on March 21, 2011	Chualar Schoolsite Council on March 24, 2011	March 28, 2011 — March 28, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	6	5	9	9	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address: lrascon@ monterey.k12.ca.us
Chualar Union Elementary School District	Luz Rascon	

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 831-679-2504 x-108
24285 Lincoln Street	Chualar	CA	93925	Fax Number: 831-679-2071

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 07/01/10 To: ~~06/30/2011~~ 06/29/2012	March 28, 2011	March 28, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 Section (i) and (iii) Circle One: ***EC*** or *CCR*

Topic of the waiver: **Quality Education Investment Act (QEIA) Class Size Waiver**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **_N/A____** and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 21, 2011
Name of bargaining unit and representative(s) consulted: California Teacher's Association – Virginia Roach, President, Laura Berdahl, Negotiations Representative and Megan Kimble, Negotiations Representative

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* Chualar Post Office, Patton's Store and Chualar Market

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Chualar School Site Council
Date the committee/council reviewed the waiver request: March 24, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding: (1) Meet all of the following class size requirements: (A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)). (B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows: (i) At least five pupils fewer per classroom than was the average in 2006-07. (ii) An average of 25 pupils per classroom. (iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District is requesting CSR target for grades 5th, 6th and 8th to be modified to fully be able to comply with all five components of QEIA for the period of July 1, 2010 through June 30, 2011 (Please see attached table). Chualar Elementary School is a Title 1 school with approximately 97% if its students receiving free or reduced lunch. The school is very small and it is located in a rural community consisting of predominantly English learners and low income. Chualar Elementary School has approximately 336 ADA/350 enrollment. Enrollment varies throughout the year due to the nature of family dynamics, one-third of our students are migrant, some students start after school begins and move away before school ends. The school is currently running at maximum capacity, meaning there are no other rooms or structures that can be safely converted and/or used as classrooms at this time due to lack of funding. QEIA funding is assisting Chualar Elementary School in its efforts to have a low student teacher ratio. Without QEIA's funding the school would not be able to continue to have a low student teacher ratio.

8. Demographic Information:

Chualar Union School has a student population of 350 students and is located in the small, impoverished, unincorporated rural community of Chualar, California in South Monterey County. The student population is comprised of 78% English Learners, 98% Latinos, and 97% socio-economically disadvantage. Farm labor is the community's prime source of employment.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CSR Target Student Table

	Target	FY 10-11 Current
Kinder	20	19.3
1st	20	23.2
2nd	20	18.6
3rd	20	19.4
4th	25	16.6
5th	16.5	22
6th	24	25.7
7th	21	21.1
8th	15	18.2

ITEM #W-15

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Los Angeles Unified School District** to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from **San Fernando Middle School** and **Lincoln High School** to follow identified students who will be transferring to **San Fernando Institute of Applied Learning** and **Leadership in Entertainment and Media Arts** to ensure that they will not lose the benefits of the Quality Education Investment Act. Waiver Number: 71-10-2010	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial because its approval would not adequately address the educational needs of pupils as described in California *Education Code (EC)* Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the September 8, 2011 the motion failed on this waiver. If the SBE fails to take action on this waiver request at this meeting, the request is deemed approved for one year pursuant to *EC* Section 33052 and there will be no conditions on the approval.

From March 2009 through the September 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 53 waivers related to the Quality Education Investment Act (QEIA) to the SBE. Of that number:

- 33 were related to QEIA class size reduction (CSR) requirements: 27 were approved with conditions, 5 were denied, and 1 was postponed.
- 9 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions, 2 were withdrawn, 1 was denied, and 1 no action taken.
- 11 were relating to revising the teacher experience index (TEI): 1 was withdrawn and 10 were postponed.

SUMMARY OF KEY ISSUES

San Fernando Middle School (MS) and Lincoln High School (HS) were chosen to participate in the QEIA program in 2006–07 with a population of approximately 1,659 students and 2,760 students, respectively. The Los Angeles USD has stated that in the 2010–11 school year, it opened two small schools: (1) San Fernando Institute of Applied Learning and (2) Leadership in Entertainment and Media Arts. The Los Angeles USD is requesting that QEIA funds be allowed to follow approximately 400 students transferring from San Fernando MS to San Fernando Institute of Applied Learning, and approximately 430 students transferring from Lincoln HS to Leadership in Entertainment and Media Arts. The Los Angeles USD states that all students transferring to either San Fernando Institute of Applied Learning or Leadership in Entertainment and Media Arts are covered by QEIA funding at San Fernando MS and Lincoln HS.

The CDE recommends the SBE deny this waiver and finds that pursuant to *EC* Section 33051(a)(1), its approval would not adequately address the educational needs of pupils. Allowing new schools to enter the program would allow San Fernando MS and Lincoln HS to continue in the program when Lincoln HS did not meet the 2010–11 API growth requirements of QEIA. (See Attachment 2.)

The QEIA Program was designed to be a school reform initiative not an individual student intervention. QEIA program requirements preclude new schools from participating in the program for two reasons. The first is the fact that a large number of schools that originally applied for participation were excluded from the program due to funding limitations. More importantly, the program has specific timelines for participation and must meet targets in several areas, including student academic growth, teacher experience ratio, and class size adjustments. Adding schools at this late date compacts that timeline and limits the ability of the new schools to demonstrate success in the program. Such a school does not have baseline data against which to measure performance on each indicator. Schools that do not meet program requirements stand to lose future QEIA funding, so these new schools would only benefit from QEIA participation for a short time if they are unable to successfully implement the program within the truncated timeline.

Further, due to the fact that QEIA funding is limited, approval of this waiver request would require that the state limit funding for San Fernando MS, Lincoln HS, San Fernando Institute of Applied Learning, and Leadership in Entertainment and Media Arts to the level that has been currently provided to San Fernando MS and Lincoln HS. Unanticipated growth at the schools could encroach on the program's capacity to meet its statewide funding requirements.

Demographic Information: Los Angeles Unified School District has a student population of 678,441 and is located in an urban area in Los Angeles County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 30, 2014

Local board approval date(s): November 16, 2010

Public hearing held on date(s): November 16, 2010

Bargaining unit(s) consulted on date(s): October 26, 2010

Name of bargaining unit/representative(s) consulted: United Teachers Los Angeles (UTLA), Gregg Solkovits

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate): None

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: District English Learner Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 28, 2010

FISCAL ANALYSIS (AS APPROPRIATE)

Denial of this waiver will disallow QEIA funds from being distributed to the San Fernando Institute of Applied Learning School or to Leadership in Entertainment and Media Arts. The QEIA statute calls for any undistributed annual QEIA funding be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 Pages) (Original waiver request is signed and on file in the SBE Office or in the Waiver Office.)

Attachment 2: Academic Performance Index Growth for San Fernando Middle School and Lincoln High School (1 Page)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	3	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Los Angeles Unified School District on Behalf of San Fernando Institute of Applied Media, and Leadership in Entertainment & Media Arts	Parker Hudnut – Executive Director, Innovation & Charter Schools Division	Parker.hudnut@lausd.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 213-241-5104
333 S. Beaudry Ave	Los Angeles	CA	90017	Fax Number: 213-241-4710

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/11 To: 6/30/14	11/16/10	11/16/10

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **Section 52055.750.(a)** One: *EC* or *CCR*

   Topic of the waiver: **QEIA Funds Follow the Child**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): *10/26/10*

   Name of bargaining unit and representative(s) consulted: *United Teachers Los Angeles (UTLA), Gregg Solkovits*

   The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _x_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: *District English Learner Advisory Committee*

   Date the committee/council reviewed the waiver request: *10/28/10*

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Section 52055.750.(a) Ensure that the fund received on behalf of funded schools are expended ~~on that school~~, except that during the first partial year of funding districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the district.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

This waiver is to request that funds from **2 QEIA schools, San Fernando MS and Lincoln HS**, follow the students to two small autonomous schools that opened in 2010-2011, **San Fernando Institute of Applied Media (SFIAM) and Leadership in Entertainment & Media Arts (LEMA),** respectively. The two small schools continue to serve the same student body and the same attendance area of the 2 QEIA schools prior to 2008-09. These new small schools intend to apply for their own CDS code on 2011-2012, without a waiver request the students who transfer to these school will lose the benefit of the QEIA program in which the funds were originally intended for.

Expected Outcome: QEIA funding will be allocated to the small schools with new CDS codes and allow students to continue to benefit from the program. The state would not incur any additional costs as these students are currently attending QEIA funded schools.

See attached additional information

8. Demographic Information:
The Los Angeles Unified School District has a student population of 678, 441 and is located in an urban area in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Executive Director, Innovation & Charter Schools	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

A Proposal for Granting LAUSD a QEIA Funding Waiver
For 2 New Small Schools (#2)

BACKGROUND

The Los Angeles Unified School District (LAUSD) is requesting a waiver that would allow the QEIA funding to continue for students who are transferring to 2 new small schools.

San Fernando Institute of Applied Media (SFIAM) and **Leadership in Entertainment & Media Arts (LEMA)** are 2 new small schools serving the same student population as **San Fernando MS and Lincoln HS (Both QEIA Schools), respectively.** Both new schools participated in the first round of the District's Public School Choice Resolution, an initiative voted on by the Los Angeles Unified School District's Board of Education that calls for innovative and strong instructional plans that will address the unique instructional needs of the students in the school's community. The resolution seeks to support transformation efforts that are grounded in research, strong parent-community engagement, and clear accountabilities. It also follows the mandate set in place by No Child Left Behind (NCLB), which requires LEAs to take dramatic action to improve chronically underperforming schools.

We are requesting a waiver to allow funds to follow approximately 400 students transferring from San Fernando MS to San Fernando Institute of Applied Media (SFIAM) and for 430 students transferring from Lincoln HS to Leadership in Entertainment & Media Arts (LEMA). SFIAM and LEMA opened in 2010-2011, serving 100% of the same population of students in San Fernando MS and Lincoln HS. These schools plan to apply for their own CDS codes in the spring of 2011. Both schools serve a large number of students requiring academic support in ELA proficiency and around 90% of their population coming from socio-economically disadvantaged families. These students deserve choices in opportunities for quality education since their educational needs are complex. With a smaller, personalized learning environment their chances for success increase as teachers are better able to respond to their needs. Moreover, we believe that this is in line with the intent of QEIA legislation to improve the quality of academic instruction and academic achievement in schools serving high poverty students.

QEIA program requirements will be maintained for these schools using baseline data from the originating schools in order to measure annual benchmark goals. Since both schools will be composed of the same QEIA students, baseline determinations for class size reduction will be similar to the originating school. With regards to baseline teacher experience, the District has established a Teacher Experience Index (TEI) of 95% for all LAUSD schools, thereby meeting the goal set by the state. According to the End of Year Report submitted by the Los Angeles County Office of Education (LACOE) to the California Department of Education (CDE), all LAUSD QEIA schools met the TEI; therefore the District believes this should no longer be an issue. Furthermore, this will continue to be monitored for all QEIA schools by the Human Resources Department to ensure they continue to meet TEI requirements.

The state would not incur any additional costs as students come from the same attendance boundaries. A reduction in QEIA funding from the originating school is offset by the flow of funds to the new school receiving those same students. Additionally, these small schools follow a school model utilizing a personalized learning environment that keeps enrollment small.

These schools will continue to incorporate their accountability and implementation plans into their Single Plans. Furthermore, the District will ensure accountability for these schools in partnership with LACOE.

Academic Performance Index Growth for San Fernando Middle School and Lincoln High School

SAN FERNANDO MIDDLE SCHOOL

PI YEAR 5

19647336058283

	BASE API	DECILE RANK	GROWTH TARGET	API TARGET	GROWTH POINTS MADE	GROWTH API	COMMENTS
2008-09	627	1	9	636	-3	624	DID NOT MEET GROWTH TARGET
2009-10	622	1	9	631	7	629	DID NOT MEET GROWTH TARGET
2010-11	629	1	9	638	45	674	MET GROWTH POINTS
3 - Year Total			27		49		Exceeded the 3-year average required by QEIA

LINCOLN HIGH SCHOOL

PI YEAR 5

19647331935121

	BASE API	DECILE RANK	GROWTH TARGET	API TARGET	GROWTH POINTS MADE	GROWTH API	COMMENTS
2008-09	609	2	10	619	-22	587	DID NOT MEET GROWTH TARGET
2009-10	588	1	11	599	27	615	MET GROWTH POINTS
2010-11	616	1	9	625	25	641	MET GROWTH POINTS
3 - Year Total			30		30		MET the three year average but did not EXCEED the 3-year average required by QEIA.

QEIA CALCULATION OF API GROWTH TARGET:

A SCHOOL'S GROWTH TARGETS IN 2008-09, 2009-10, AND 2010-11 ARE SUMMED AND DIVIDED BY THREE, THEN COMPARED TO THE GROWTH SCORES ALSO SUMMED OVER THE SAME TIME FRAME AND DIVIDED BY THREE. IF THE AVERAGED GROWTH SCORE IS GREATER THAN THE AVERAGED GROWTH TARGET, IT HAS MET THE REQUIREMENT FOR THE FIRST THREE YEARS OF FULL FUNDING.

ITEM #W-16

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Los Angeles Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index, Highly Qualified Teacher requirements, and Williams' settlement agreement requirements under the Quality Education Investment Act, so that the full implementation of these programmatic requirements is not required until 2012–13 at **Alain LeRoy Locke Charter High School, Animo Locke #1, Animo Locke #2, Animo Locke #3, and Animo Locke ACE Academy.** Waiver Number: 8-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial because its approval would not adequately address the educational needs of pupils as described in California *Education Code* (*EC*) Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This waiver was W-25 on the September 2011 State Board of Education meeting and was withdrawn by the district and rescheduled for this meeting.

From January 2009 through the September 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 53 waivers related to the Quality Education Investment Act (QEIA) to the SBE. Of that number:

- 33 were related to QEIA class size reduction (CSR) requirements: 27 were approved with conditions, 5 were denied, and 1 was postponed.
- 9 were related to adding new schools to the QEIA program: 2 were approved, 3 were approved with conditions, 2 were withdrawn, 1 was denied, and 1 no action taken.
- 11 were relating to revising the teacher experience index (TEI): 1 was withdrawn and 10 were postponed.

SUMMARY OF KEY ISSUES

The Los Angeles Unified School District (USD) is requesting this waiver, for years 2010–11 and 2011–12, from the QEIA monitoring requirements relating to the TEI, highly qualified teachers (HQT), and the Williams' settlement agreement. The Los Angeles USD states that it will meet the full QEIA monitoring requirements by 2012–13.

The Los Angeles USD received its first QEIA waiver from the SBE in March 2009. This waiver allowed the money to follow the students from seven schools. (See Attachment 4.) Following the March 2009 meeting, SBE President Theodore Mitchell wrote a letter, dated April 27, 2009, to Los Angeles USD Superintendent Ramon C. Cortines "to clarify the limited scope of this waiver," stating that "the total amount of QEIA funding that would be received by the Los Angeles USD would not increase." (See Attachment 2.) A subsequent letter from State Superintendent of Public Instruction Jack O'Connell to Superintendent Cortines, dated June 16, 2009, reiterated the fact that there would be no additional funding for the 2008–09 school year or prior years. (See Attachment 3.) The letter also reminded the Los Angeles USD of its commitment, contained in supplemental information provided with its initial waiver request, as follows:

> The LAUSD acknowledges the finite funds for QEIA and is not asking for an increase in funded students at the schools in question. The LAUSD has made a commitment that local funds would be used to ensure that all QEIA schools are able to satisfy QEIA requirements.

In May 2009, the SBE approved a second Los Angeles USD waiver to allow the QEIA money to follow the students from Locke High School to an additional four charters that are the subject of this waiver request.

In March 2010, the SBE approved three additional waivers for 16 identified Los Angeles USD QEIA schools to allow the money to follow the students, this time including explicit conditions for each waiver: (1) the district must maintain all class size targets for all the new schools; (2) student performance will be tracked using current overall API from the originating school as the base; (3) the schools must follow the approved QEIA timelines; and (4) the district must match the funding to maintain QEIA class size targets for all students in the schools.

The CDE's previous recommendations to deny QEIA waivers was based on the concern that approval would make it difficult for the schools to fully implement program requirements within the truncated timelines. This has proven to be true, despite the Los Angeles USD's commitment to ensure that "all QEIA schools" would be "able to satisfy QEIA requirements." Once again, the district is asking for a waiver for QEIA schools.

The Department believes that the approval of this waiver request will continue to present significant challenges for these schools in fully implementing program requirements. QEIA-funded schools are expected to provide specific and significant benefits to their students through the reduction of the class size of core classes, reduction of pupil-to-counselor ratios, and improved instruction through expanded professional development, HQT, and the average years of experience of classroom

SUMMARY OF KEY ISSUES (Cont.)

teachers in the school equal to or exceeding the average for the Los Angeles USD, among other things. For this reason, the CDE recommends denial on the basis that its approval would not adequately address the educational needs of pupils within the meaning of *EC* Section 33051(a)(1).

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Los Angeles Unified School District has a student population of approximately 678,441 and is located in Los Angeles County. Alain LeRoy Locke Charter High School has a student population of 2,353.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 30, 2015

Local board approval date(s): May 24, 2011

Public hearing held on date(s): May 24, 2011

Bargaining unit(s) consulted on date(s): May 11, 2011

Name of bargaining unit/representative(s) consulted: Asociacion de Maestros Unidos, Arelle Zurzolo, President; Animo Classified Employees Association, Daymond Johnson, 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)

Advisory committee(s) consulted: School Site Councils or other school advisory councils of the Alain LeRoy Locke Charter High School

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 11, 12, and 13, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must fully implement all of the QEIA statute requirements to remain in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: April 27, 2009, letter from Theodore Mitchell, President, State Board of Education, to Ramon C. Cortines, Superintendent, Los Angeles Unified School District, regarding Waiver Related to the Quality Education Investment Act (1 Page)

Attachment 3: June 16, 2009, letter from Jack O'Connell, State Superintendent of Public Instruction, to Ramon C. Cortines, Superintendent, Los Angeles Unified School District, regarding Quality Education Investment Act Funding (2 Pages)

Attachment 4: Los Angeles Unified School District Quality Education Investment Act Waivers (3 Pages)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	3	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Los Angeles Unified School District	Parker Hudnut, Executive Director, Innovation and Charter Schools	Parker.hudnut@lausd.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
333 S. Beaudry Ave.	Los Angeles	CA	90017	213.241.8370 Fax Number: 213.241.4710

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2011 To: 6/30/2015	May 24, 2011 kak 5/23/2011	May 24, 2011 kak 5/23/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **52055.740 (~~5) (b) (2~~) (a) jb 5/23/11** Circle One: *EC* or *CCR*
Topic of the waiver: **Extension for Full Implementation of Programmatic Requirements**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No __ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **AMU – 4/12/2011, ACEA – 4/11/2011**

Name of bargaining unit and representative(s) consulted: **Asociacion de Maestros Unidos (AMU) – Arielle Zurzolo, President**
Animo Classified Employees Association (ACEA) - Daymond Johnson, President
kak 5/20/11

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver, Date the committee/council reviewed the waiver request:

Locke Launch to College Academy School Advisory Committee – consulted on 4/13/2011
Animo Locke 1 School Advisory Committee – consulted on 4/12/2011
Animo Locke 2 School Advisory Committee – consulted on 4/12/2011
Animo Locke 3 School Advisory Committee – consulted on 4/12/2011
Animo Locke ACE Academy School Advisory Committee – consulted on 4/11/2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

5. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the ~~third~~ FIFTH full year of funding:

52055.740 (D)(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

52055.740 (D)(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

6. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

In 2008-2009, the operations of Locke High School were turned over from the Los Angeles Unified School District ("LAUSD") to Green Dot Public Schools ("Green Dot"), a non-profit charter management organization. Due to the transition, a number of veteran Locke teachers chose to leave their position at Locke in order to maintain their seniority and lifetime benefits with LAUSD. Although Locke High School/Green Dot has concentrated its efforts in hiring more veteran teachers, we have been unable to do so due to the following factors: 1) unable to replace the senior teachers who left Locke to stay with LAUSD with the same amount of experience; 2) difficulty in hiring highly qualified teachers to fill vacant positions, especially in the fields of math, science and special education where there continues to be a shortage of highly qualified teacher candidates.

Due to these reasons, we cannot meet the full implementation of personnel requirements in the areas of HQT, El Authorizations (Williams) and the inherited LAUSD Teacher Experience Index ("TEI") of 6.8 years that we are required to meet in 2010-11. Although Locke High School has been able to meet the 1/3 and 2/3 requirement over the last two years, we are unable to reach the full implementation requirement by year three as personnel changes within a union environment take more time than other programmatic changes, such as reducing class sizes and implementing more professional development.

This waiver is to request a two year extension to reach full implementation of programmatic requirements for each of the five Locke schools which currently receives QEIA funding. Additional interim benchmarks will be set and specific action steps will be outlined to ensure Locke High School will meet its full Teacher Experience Index, HQT, and Williams requirements by 2012-2013. Please see attached supplemental report which outlines improved outcomes in API, increased attendance and increased graduation rates.

Expected Outcome: Locke High School will maintain QEIA funding in 2011-12 and 2012-13 and will meet full QEIA programmatic requirements in 2012-13.

Consequences if not approved: Locke High School would lose QEIA funding in 2012-2013 resulting in layoffs of approximately 16 certificated staff. We would not be able to continue our commitment to developing exemplary school district and school practices that will create the working conditions and classroom learning environments that will attract and retain well qualified teachers, administrators, and other staff. Furthermore, there is a risk of reversing the improved academic results due to having to increase class sizes and to restructure the entire school.

7. Demographic Information:
The *Locke QEIA Schools*__ have a student population of _2,353__ and is located in an _urban city_ in _Los Angeles_ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Parker Hudnut, Executive Director	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Supplemental Information Re: Locke High School QEIA Waiver Request

The Locke Transformation Project is one of the most innovate reform efforts in public education today. It is a one-of-a-kind partnership between a non-profit charter school operator (Green Dot Public Schools), the stakeholders (teachers, parents, community leaders) of a public high school, and a public school district (Los Angeles Unified School District) to radically restructure an underperforming high school.

In 2008-2009, the Los Angeles Unified School District ("LAUSD") handed over governance of Locke High School to the non-profit charter operator, Green Dot Public Schools ("Green Dot") after the majority of tenured teachers voted to convert the school into a charter. Green Dot restructured Locke into five conversion charter schools, all of which currently receive QEIA funding.

Over the first two years of QEIA funding (2008-2009 and 2009-2010), Locke High School has been able to meet the one-third and two-thirds programmatic requirements specified in the Education Code Section 52055.700-52055.770 and per oversight of the Los Angeles County of Education office. By meeting these requirements, Locke has achieved the following outcomes:

1. Increased actual pupil attendance dramatically by over 10% from LAUSD to Green Dot:

Operator	Year	ADA%
LAUSD	2007-2008	77.8
Green Dot	2008-2009	87.8%
Green Dot	2009-2010	87.0%
Green Dot	2010-2011(YTD	89.2%

2. Increased # of graduates by over 100 students each year and increased graduation rate by approximately 20%.

Operator	Year	#of Graduates	#of Seniors	%
LAUSD	2007-2008	261	425	61.4%
Green Dot	2008-2009	399	487	81.9%
Green Dot	2009-2010	374	465	80.4%

3. Exceeded Schoolwide API growth Targets by a combined total of +90 points over the last two years:

CDS Code	School	Target 2008-09	Actual 2008-09	Target 2009-10	Actual 2009-2010
19-64733-1935154	Alain LeRoy Locke High School	+14	+24	+13	+35
19-64733-0118588	Amino Lock #1	n/a	n/a	+16	+84
19-64733-0118596	Amino Locke #2	n/a	n/a	+11	+34
19-64733-0118570	Amino Locke #3	n/a	n/a	+15	-8
19-64733-0119909	Amino Locke ACE Academy	n/a	n/a	n/a	n/a
	Total	**+14**	**+24**	**+55**	**+145**

**Animo Locke #1, #2, and #3 did not have a growth API in 2008-09 because that was their first year of operation; Animo Locke ACE Academy did not have a growth API in 2008-09 and 2009-10 because their first year of operation was in 2009-2010.*

Despite the strong results, the Locke schools are currently in jeopardy of losing their QEIA allocation based on not being able to meet the full implementation of programmatic requirements in 2010-2011. In 2010-2011, the Locke schools will meet all the QEIA implementation requirements except for the requirements related to personnel. The

transition of Locke High School from LAUSD to Green Dot forced several more veteran and qualified teachers to remain with LAUSD and leave teaching at Locke, bringing down Locke's teacher experience index. Additionally, for Green Dot, filling those vacant positions proved difficult especially with the continued shortage of highly qualified teachers in the math, science and special education fields.

The Locke schools are committed to the QEIA requirements and are not asking to waive any requirements. Instead, we are actively seeking an extension to ensure all teachers have the appropriate credentials to meet HQT, hold the appropriate EL authorizations, and meet the inherited LAUSD Teacher Experience Index of 6.8 years. The Locke schools will meet all the QEIA requirements but we are requesting 2 additional years to meet the personnel requirements due to the major restructuring efforts that have been happening at Locke. Again, the Locke schools are beginning to show strong academic gains and we do not want to lose the momentum that the schools and the students have been able to gain through QEIA class size reduction, counselor ratios, and professional development for teachers.

As stated in the waiver, there are five the Locke schools requesting to extend the full implementation deadline by two years. The five schools are as follows:

CDS Code	**School**
19-64733-1935154	Alain LeRoy Locke High School
19-64733-0118588	Amino Lock #1
19-64733-0118596	Amino Locke #2
19-64733-0118570	Amino Locke #3
19-64733-0119909	Amino Locke ACE Academy

Each school is requesting the full implementation extension in the following three personnel categories:

52055.740 (D)(3) Ensure that each teacher in the school, including intern teachers, shall be highly qualified in accordance with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

52055.740 (D)(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

52055.740 (D)(5)(b)(4) Meet all of the requirements of the settlement agreement in Williams v. State of California (Case Number CGC-00-312236 of the Superior Court for the County of San Francisco)…

HQT/NCLB: Currently, there are five out of 117 teachers at the Locke schools who hold multiple subject credentials instead of a single subject credential. In order to ensure that we are able to meet the HQT requirement under NCLB, these teachers have until the end of the 2010-2011 school year to earn their single subject credential and become HQT under NCLB. To prevent future hires that are not HQT under NCLB, Green Dot has a credential specialist in our central office who reviews every candidate to ensure full compliance before an offer is extended.

Teacher Experience Index: In 2008-2009, Locke's QEIA Teacher Experience Index ("TEI") was 3.2. Over the last two years, the TEI has steadily increased to 3.9 in 2009-2010 and is expected to reach 4.7 for 2010-2011. The Green Dot wide QEIA TEI is currently 5.1. As a younger organization than LAUSD, teachers naturally have not been teaching as long with Green Dot. Furthermore, as mentioned earlier, the

Locke transition from LAUSD to Green Dot resulted in a number of veteran Locke teachers who were offered to remain and teach at Locke decline the offer due to the fact they would lose their seniority and lifetime benefits with LAUSD by transferring over to Green Dot.

All of our administrators have been informed of the need to hire more experienced teachers. The Green Dot Human Capital department is reviewing the current staffing of the Locke schools to determine each school's hiring needs in the core content areas and ensuring that experienced candidates are placed at these sites.

Williams Settlement/Teacher Assignment Review: Similar to HQT/NCLB, all teachers with mis-assignments have been given until the end of the 2010-2011 school year to ensure they have the proper authorization. Additionally, our credential specialist is conducting an ongoing audit of our existing teachers to ensure that they are CLAD certified as well as teaching the proper course of study. All new Green Dot teacher candidates will not be extended an offer unless they have the proper authorization in order to teach a course of study.

The Locke schools are committed to ensuring they meet the QEIA requirements and have specific action steps to ensure (within the next two years) that all teachers have the appropriate credentials to meet HQT, hold the appropriate EL authorizations, and meet the inherited LAUSD Teacher Experience Index of 6.8 years within two years. The results demonstrate that Locke has made progress and has even exceeded the desired student achievement outcomes that the QEIA legislation intended for schools to achieve. By allowing the programmatic requirements extension in the personnel categories, Locke will be able to maintain 16 certificated positions which would otherwise need to be cut and will be able to continue serving the students of South Los Angeles and Watts with a program that is proving to generate results.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Suite 5111
Sacramento, CA 95814
Phone: (916) 319-0827
Fax: (916) 319-0175

April 27, 2009

Ramon C. Cortines, Superintendent of Schools
Peggy Barber, Coordinator
Office of Governmental Relations
Los Angeles Unified School District
333 Beaudry Avenue, 24th Floor
Los Angeles CA 90017

Re: Waiver Related to the Quality Education Investment Act

Dear Mr. Cortines and Ms. Barber:

The purpose of this letter is to follow up with you regarding the disposition letter that was sent to you by the California Department of Education (CDE) on March 18, 2009, regarding the Quality Education Investment Act (QEIA) waiver requested by LAUSD, which became effective as of April 1, 2009, and ends on March 31, 2010.

Because the State Board of Education did not affirmatively act on this waiver, we are writing to you now to clarify the limited scope of this waiver. The request that you submitted to CDE proposed to transfer 80 percent of the student body from seven schools ("originating schools") currently funded under QEIA to nine new schools ("new schools"). Further, you requested continued funding for the originating schools, based on their earlier student populations, through 2014. Under the waiver, the number of QEIA-funded schools within LAUSD would increase from 88 to 97. However, the total amount of QEIA funding that would be received by LAUSD would not increase; instead, the current QEIA funds would be allocated across a greater number of recipient schools.

If you have any questions or need further assistance please contact Debbie Rury, Interim Executive Director, SBE, at 916-319-0827.

Sincerely,

Theodore R. Mitchell

Theodore Mitchell, President
State Board of Education

cc: Gavin Payne, Chief Deputy, CDE
Judy Pinegar, Manager, Waiver Office, CDE
Debbie Rury, Interim Executive Director, SBE

AAV of SBE Item W-16 Attachment 2

This page is the Accessible Alternative Version (AAV) of Item W-16 Attachment 2 from the November 9-10, 2011 California State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 1 Attachment 4 from the November 9-10, 2011 State Board of Education (SBE) meeting. The scanned Item W-16 Attachment 2 (PDF; 607KB; 1p.) version is considered to be the official version of the document.

STATE OF CALIFORNIA
Arnold Schwarzenegger, Governor

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Suite 5111
Sacramento, CA 95814
Phone: 916-319-0827
Fax: 916-319-0175

April 27, 2009

Ramon C. Cortines, Superintendent of Schools
Peggy Barber, Coordinator
Office of Governmental Relations
Los Angeles Unified School District
333 Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

Re: Waiver Related to the Quality Education Investment Act

Dear Mr. Cortines and Ms. Barber:

The purpose of this letter is to follow up with you regarding the disposition letter that was sent to you by the California Department of Education (CDE) on March 18, 2009, regarding the Quality Education Investment Act (QEIA) waiver requested by LAUSD, which became effective as of April 1, 2009, and ends on March 31, 2010.

Because the State Board of Education did not affirmatively act on this waiver, we are writing to you now to clarify the limited scope of this waiver. The request that you submitted to CDE proposed to transfer 80 percent of the student body from seven schools ("originating schools") currently funded under QEIA to nine new schools ("new schools"). Further, you requested continued funding for the originating schools, based on their earlier student populations, through 2014. Under the waiver, the number of QEIA-funded schools within LAUSD would increase from 88 to 97. However, the total amount of QElA funding that would be received by LAUSD would not increase; instead, the current QEIA funds would be allocated across a greater number of recipient schools.

If you have any questions or need further assistance please contact Debbie Rury, Interim Executive Director, SBE, af 916-319-0827.

Sincerely,

Theodore Mitchell, President

State Board of Education

cc: Gavin Payne, Chief Deputy, CDE
Judy Pinegar, Manager, Waiver Office, CDE
Debbie Rury, lnterim Executive Director, SBE

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

Last Reviewed: Friday, November 04, 2011

JACK O'CONNELL
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

CALIFORNIA
DEPARTMENT OF
EDUCATION

June 16, 2009

Ramon C. Cortines, Superintendent
Los Angeles Unified School District
333 South Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

Dear Superintendent Cortines:

Subject: Quality Education Investment Act Funding

This letter is in response to your recent correspondence requesting additional funding for the nine Los Angeles Unified School District (LAUSD) schools recently added as participants in the Quality Education Investment Act (QEIA) program through technical approval of the waiver request initially considered by the State Board of Education (SBE) at its March 2009 meeting.

In a recent phone conversation with Mr. John Ralles, Director of the SB1X Office, the California Department of Education (CDE) has agreed with LAUSD's proposal in your letter dated March 27, 2009, which essentially waives specific program requirements and related monitoring for these schools in 2008–09 and establishes adjusted interim targets for 2009–10. Given the late date in the current school year that these nine new schools are being recognized as QEIA schools, it is only reasonable that these schools are held to QEIA program requirements beginning with the 2009–10 school year, and your proposed interim program requirements for them are appropriate and reflect the intent of the waiver.

Concerning your recent request for additional funding for QEIA schools involved in the waiver; funding for these new schools and the schools from which many of their students have been transferred will be provided for the 2009–10 school year as established in the QEIA statute, capped at the initial funding level provided to the original nine schools, $20,079,400 annually. However, both the new schools and the previously existing QEIA schools that had enrollments affected by transferred students will not have their 2008–09 funding (or that for prior years) adjusted as a result of the waiver. Such adjustments would not be in keeping with the implementation of program requirements beginning in 2009–10, and would not reflect LAUSD's stated intent concerning funding outcomes from waiver approval. Please note that in supplemental information the LAUSD provided with its initial waiver request, the district stated:

> The LAUSD acknowledges the finite funds for QEIA and is not asking for an increase in funded students at the schools in question. The LAUSD has made a commitment that local funds would be used to ensure that all QEIA schools are able to satisfy QEIA requirements.

This statement was repeated in information submitted for the SBE's reconsideration of the waiver request at its March 2009 meeting, and was also stated in the LAUSD's verbal presentation at the January and March 2009 SBE meetings. The LAUSD made clear to both the SBE and CDE staff that it did not intend to request additional funding. This funding restriction was reiterated in the enclosed letter from Ted Mitchell, President, SBE, dated April 27, 2009. LAUSD's stated intent, as well as the circumstances described above, makes a request for additional funding unsupportable.

If you have any questions regarding this subject, please contact Jim Alford, Education Programs Consultant, Regional Coordination and Support Office, at 916-319-0226 or by e-mail at jalford@cde.ca.gov.

Sincerely,

Jack O'Connell

JACK O'CONNELL

JO:ja
Enclosure

cc: Henry Mothner, Director, Division of School Improvement, Los Angeles County Office of Education
Bo Vitolo, Regional Director, Quality Education Investment Act, Los Angeles County Office of Education
John Ralles, Director, SB-1X Office, Los Angeles Unified School District

AAV of SBE Item W-16 Attachment 3

This page is the Accessible Alternative Version (AAV) of Item W-16 Attachment 3 from the November 9-10, 2011 California State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 1 Attachment 4 from the November 9-10, 2011 State Board of Education (SBE) meeting. The scanned Item W-16 Attachment 3 (PDF; 801KB; 2pp.) version is considered to be the official version of the document.

CALIFORNIA DEPARTMENT OF EDUCATION

JACK O'CONNELL
State Superintendent of Public Instruction

June 16, 2009

Ramon C. Cortines, Superintendent
Los Angeles Unified School District
333 South Beaudry Avenue, 24th Floor
Los Angeles, CA 90017

Dear Superintendent Cortines:

Subject: Quality Education Investment Act Funding

This letter is in response to your recent correspondence requesting additional funding for the nine Los Angeles Unified School District (LAUSD) schools recently added as participants in the Quality Education Investment Act (QEIA) program through technical approval of the waiver request initially considered by the State Board of Education (SBE) at its March 2009 meeting.

In a recent phone conversation with Mr. John Ralles, Director of the SB1X Office, the California Department of Education (CDE) has agreed with LAUSD's proposal in your letter dated March 27, 2009, which essentially waives specific program requirements and related monitoring for these schools in 2008-09 and establishes adjusted interim targets for 2009-10. Given the late date in the current school year that these nine new schools are being recognized as QEIA schools, it is only reasonable that these schools are held to QEIA program requirements beginning with the 2009-10 school year, and your proposed interim program requirements for them are appropriate and reflect the intent of the waiver.

Concerning your recent request for additional funding for QEIA schools involved in the waiver; funding for these new schools and the schools from which many of their students have been transferred will be provided for the 2009-10 school year as established in the QEIA statute, capped at the initial funding level provided to the original nine schools, $20,079,400 annually. However, both the new schools and the previously existing QEIA schools that had enrollments affected by transferred students will not have their 2008-09 funding (or that for prior years) adjusted as a result of the waiver. Such adjustments would not be in keeping with the implementation of program requirements beginning in 2009-10, and would not reflect LAUSD's stated intent concerning funding outcomes from waiver approval. Please note that in supplemental information the LAUSD provided with its initial waiver request, the district stated:

> The LAUSD acknowledges the finite funds for QEIA and is not asking for an increase in funded students at the schools in question. The LAUSD has made a commitment that local funds would be used to ensure

that all
QEIA schools are able to satisfy QEIA requirements.

This statement was repeated in information submitted for the SBE's reconsideration of the waiver request at its March 2009 meeting, and was also stated in the LAUSD's verbal presentation at the January and March 2009 SBE meetings. The LAUSD made clear to both the SBE and CDE staff that it did not intend to request additional funding. This funding restriction was reiterated in the enclosed letter from Ted Mitchell, President, SBE, dated April 27, 2009. LAUSD's stated intent, as well as the circumstances described above, makes a request for additional funding unsupportable.

If you have any questions regarding this subject, please contact Jim Alford, Education Programs Consultant, Regional Coordination and Support Office, at 916-319-0226 or by e-mail at jalford@cde.ca.gov.

Sincerely,

JACK O'CONNELL

JO:ja
Enclosure

cc: Henry Mothner, Director, Division of School Improvement, Los Angeles County Office of Education
Bo Vitolo, Regional Director, Quality Education Investment Act, Los Angeles County Office of Education
John Ralles, Director, SB-1X Office, Los Angeles Unified School District

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

Last Reviewed: Friday, November 04, 2011

Waiver Number	LEA Name	CDE Reccomendation	Status Description	SBE Date	Education Title	
11-8-2008-W-19	**Los Angeles Unified School District** to allow funds from **seven** QEIA schools: Virgil Middle School Berendo Middle School Manual Arts High School Los Angeles High School Dorsey High School, Hollywood High School, and Belmont High School to follow indentified students whol will be transferring to **nine newly constructed schools:** Leichty Middle School, West Adams Preparatory, Helen Bernstein High School, Academic Performance, Edward R. Roybal High School, School for the Visual Arts & Humanities, Los Angeles Teacher Preparatory Academy, CIVITAS School of Leadership, and Los Angeles High School of the Arts.	Denial	Motion failed: Moved to March meeting	January 7-8-2009	Money to Follow Identified Students	
11-8-2008-W-13	**Los Angeles Unified School District** to allow funds from **seven** QEIA schools to follow indentified students who will be transferring to **nine** newly constructed schools	Denial	Motion failed at this meeting:Approved on a technicality Period of approval: 4/1/2009 through 3/31/2010	March 12, 2009	Money to Follow Identified Students	Letters from Jack O'Connell, Ted Mitchell SBE President, and Judy Pinegar.
103-2-2009-W-12	**Los Angeles Unified School District** to allow funds from Alain LeRoy **Locke Charter High School** to follow indentified students who will be transferring to **four** Locke Conversion charter Schools under the Locke Transformation Project	Denial	Approved	May 7, 2009	Money to Follow Identified Students	

Waiver Number	LEA Name	CDE Reccomendation	Status Description	SBE Date	Education Title	
33-12-2009-W-9	**Los Angeles Unified School District** to allow funds from Roosevelt HS to follow indentified students to **six new schools** on the Roosevelt HS campus	Denial	Approved with conditions: 1) the district must keep all class size targets in place for the new schools; 2) student performance will be tracked using current overall Academic Performance from the originating school as the base; 3) the schools must follow the approved Quality Education Investment Act (QEIA) timelines; and 4) district must match the funding to maintain QEIA class size targets for all students in the schools.	March 11, 2010	Money to Follow Identified Students	
32-12-2009-W-10	**Los Angeles Unified School District** to allow funds from Roosevelt HS to follow indentified students who will be transferring the **Mendez Learning Center**	Denial	Approved with conditions: same as above	March 11, 2010	Money to Follow Identified Students	
31-12-2009-W-11	**Los Angeles Unified School District** to allow funds from seven QEIA schools to follow indentified students who will be transferring to **nine new schools**	Denial	Approved with conditions: same as above	March 11, 2010	Money to Follow Identified Students	
71-10-2010-W-17	**Los Angeles Unified School District** to allow funds from San Fernando Middle School and Lincoln High School to follow indentified students who will be transferring to San Fernando Institute of Applied Learning and Leadership in Entertainment and Media Arts	Denial	Motion failed - rescheduled to November	September 8, 2011	Money to Follow Identified Students	

Waiver Number	LEA Name	CDE Reccomendation	Status Description	SBE Date	Education Title	
8-5-2010-W-25	**Los Angeles Unified School District** to waive portions of California Education Code Section 52055.740(a), regarding the Teacher Experience Index, Highly Qualified Teacher requirements, and Williams's settlement agreement requirements under the Quality Education Investment Act, so that the full implementation of these programmatic requirements is not required until 2012 -- 2013 at Alain LeRoy Locke Charter High School, Animo Locke #1, Animo Locke #2, Animo Locke #3, and Animo Locke ACE Academy.	Denial	Item was withdrawn by district Rescheduled to November	September 8, 2011	Teacher Experience Index, Highly Qualified Teacher requirements, and William's settlement agreement requirements under QEIA	

ITEM #W-17

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by four local educational agencies to waive California *Education Code* Section 52055.740(a), regarding Teacher Experience Index under the Quality Education Investment Act. Waiver Numbers: Bakersfield City School 83-2-2011 Chula Vista Elementary 22-4-2011 Petaluma City Schools 4-4-2011 San Diego Unified 13-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

See Attachments 1, 3, 5, and 7 for details.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the September 2011 State Board of Education (SBE) Meeting, the California Department of Education (CDE) Waiver Office presented 11 Teacher Experience Index (TEI) waivers related to the Quality Education Investment Act (QEIA) to the SBE. At the direction of the SBE, all TEI waivers were postponed pending further review.

If the SBE fails to take action on this waiver request at this meeting, the request is deemed approved for one year pursuant to *EC* Section 33052. Therefore, there will be no conditions on the approval.

SUMMARY OF KEY ISSUES

Teacher Experience Index

Schools participating in the QEIA Program were monitored by their county offices of education for compliance with program requirements, including TEI, for the first time at the end of the 2008–09 school year. At that time, local educational agencies (LEAs) were required to demonstrate one-third progress toward full implementation of program requirements. At the end of the 2009–10 school year, QEIA LEAs were required to demonstrate two-thirds progress toward full program implementation.

SUMMARY OF KEY ISSUES (Cont.)

QEIA schools are required to include an index based on the 2005–06 California Basic Educational Data System Professional Assignment Information Form as the base-reporting year to evaluate annual improvements of funded schools toward balancing the index of teacher experience. Approved by the district superintendent, the index is an aggregate indicator of the teaching experience on a scale of one to ten. QEIA schools are required to have a TEI equal to or exceeding the average for the school district for this type of school and maintain or exceed this experience level for the duration of funding.

If an LEA requests a waiver of the TEI, the CDE reviews a range of information regarding the unique circumstances of the school and the district when formulating a recommendation to the SBE.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the CSR/TEI targets based on statute requirements to stay in the program. Any school in the program not meeting those targets will risk the loss of future funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded).

ATTACHMENT(S)

Attachment 1: Bakersfield City School District Request for a Quality Education Investment Act Teacher Experience Index Waiver 83-2-2011 (2 pages)

Attachment 2: Bakersfield City School District General Waiver Request 83-2-2011 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

ATTACHMENT(S) (Cont.)

Attachment 3: Chula Vista Elementary District Request for a Quality Education Investment Act Teacher Experience Index Waiver 22-4-2011 (2 pages)

Attachment 4: Chula Vista Elementary District General Waiver Request 22-4-2011 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Petaluma City Elementary District Request for a Quality Education Investment Act Teacher Experience Index Waiver 4-2-2011 (2 pages)

Attachment 6: Petaluma City Elementary District General Waiver Request 4-4-2011 (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 7: San Diego Unified School District Request for a Quality Education Investment Act Teacher Experience Index Waiver 13-5-2011 (2 pages)

Attachment 8: San Diego Unified School District General Waiver Request 13-5-2011 (9 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Waiver Number: 83-2-2011 **Period of Request:** July 1, 2010, to June 30, 2014
Jefferson Elementary School
Mt. Vernon Elementary School
Bakersfield City School District 15-63321

LEA Request:

Bakersfield City School District (CSD) is an urban school district located in Kern County. Jefferson Elementary School (ES) serves students in kindergarten through grade five and Mt. Vernon Elementary School (ES) serves students in kindergarten through grade six. Bakersfield CSD has a student population of 27,688 students. Bakersfield CSD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Bakersfield CSD TEI is 7.7. Bakersfield CSD's average TEI for 2010–11 for this type of school is 8.37.

Bakersfield CSD states that due to current budget constraints, class size ratios were increased during the 2010–11 school year at non-QEIA schools and an early retirement incentive was provided to teachers. Twenty-seven teachers were hired or transferred to the three QEIA schools in order to protect the QEIA program's class size reduction (CSR) requirements and to replace teachers who accepted the retirement incentive. Sixteen of the twenty-seven teachers hired or transferred to QEIA schools in 2010–11 have four or fewer years of teaching experience, creating the schools' inability to meet the established TEI requirement. Bakersfield CSD requests a waiver of the QEIA TEI target for Jefferson ES and Mt. Vernon ES and establishment of alternative TEI targets of 6.8 and 7.1, respectively, which are based on 2010–11 TEI levels. The 2010–11 TEI alternative targets of 6.8 and 7.1 are less than Bakersfield CSD's 2010–11 TEI average of 8.37 for this type of school.

Additional LEA and School Information for Consideration:

School Name	Jefferson ES	Mt. Vernon ES
School Locale Code	11*	21**
LEA Average Daily Attendance (ADA)	27,688	27,688
School ADA	522	818
Grade Span	K–5	K–6
Total Number Of Schools With Similar Grade Span	30 elementary	30 elementary
2005–06 TEI	7.7	7.7
2010–11 QEIA School TEI	6.8	7.1
2010–11 Similar Type School TEI	8.37	8.37
Percent Of Similar Type School	81.2	84.8
Made API Growth?	Yes	Yes
Made AYP?	No	No

*City Large: Territory inside an urbanized area and inside a principal city with population of 250,000 or more.
**Suburb Large: Territory outside a principal city and inside an urbanized area with population of 250,000 or more.

CDE Recommendation and Conditions:

The California Department of Education recommends denial of this request because the educational needs of the pupils are not adequately addressed. Specifically, (1) QEIA program requirements were known to the District prior to its decision to apply for program participation; (2) QEIA funding is expected to result in increased teacher experience over time; (3) the District has approximately 30 elementary schools from which to draw experienced teachers from to meet the QEIA TEI requirements; and (4) the District is located in a large urban/suburban region in which transfers of teachers would not create undue hardship.

Reviewed by Mt. Vernon Elementary Schoolsite Council on January 26, 2011, and Jefferson Elementary Schoolsite Council on February 1, 2011.

Supported by Bakersfield Elementary School Teachers Association on February 8, 2011.

Local Board Approval: February 22, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	5	6	3	3	2	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Bakersfield City School District	Rona Crawford, Supervisor I	crawfordr@bcsd.com

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
1300 Baker Street	Bakersfield	California	93305	(661) 631-4802 Fax Number: (661) 631-4643

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2010 To: June 30, 2014	February 22, 2011	February 22, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) (4) Circle One: (*EC*) or *CCR*

   Topic of the waiver: QEIA

2. If this is a renewal of a previously approved waiver, please list Waiver Number: n/a ___ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 8, 2010

   Name of bargaining unit and representative(s) consulted: Bakersfield Elementary Teachers Association BETA, Brad Barnes, President.

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised

   _X_ Notice in a newspaper _X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: School Site Council at Mt. Vernon Elementary – 1/26/11;

   School Site Council at College Heights Elementary – 1/31/11; School Site Council at Jefferson Elementary – 2/1/11.

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740(a)(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school ~~equal to or exceeding~~ the average for the school district for this type of school.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

In 2005-06, the California Department of Education established 7.7 years as the average Teacher Experience Index (TEI) for Bakersfield City School District's (BCSD) four QEIA schools. Teachers with more than ten years experience have a maximum cap of ten years counted towards the school's average.

Each QEIA school in BCSD is progressing towards full implementation of the TEI requirement. The slight decrease in Mt. Vernon's TEI for 2008-09 and Jefferson's TEI in 2009-10 were due to teacher retirements at each school; however, both schools met the QEIA implementation requirements for the 2008-09 and 2009-10 school years.

The average TEI per school for 2010-11 is listed below.

~~College Heights Elementary: 7.6 Year Average~~ removed at district request per B. Storelli kak 8/2/2011
Jefferson Elementary: 6.8 Year Average
Mt. Vernon Elementary: 7.2 Year Average

Due to the current budget constraints, the district increased Class Size Reduction (CSR) ratios in grades K-8 (grades K-3 increased to 21.5 :1; grades 4-6 increased to 35.5 :1) and provided a retirement incentive to teachers. Both measures are in effect as of the 2010-11 school year. Twenty-seven teachers were hired or transferred to three QEIA schools (listed above) in order to protect the QEIA program's CSR requirements and to replace teachers who accepted the retirement incentive. Transfers were conducted in accordance with the BCSD Collective Bargaining Agreement. Sixteen of the twenty-seven teachers hired or transferred to QEIA schools in 2010-11 have four years or less teaching experience creating the schools inability to meet the 7.7 year average established by the CDE.

Improved student performance is measured by the Academic Performance Index (API). The API growth is listed below starting with the first year of full funding of the QEIA program (2008-09).

In 2008-09: College Heights +23 points; Jefferson +42 points; Mt. Vernon +22 points.
In 2009-10: College Heights +29 points; Jefferson +35 points; Mt. Vernon +34 points.

Total API growth (2008-10): College Heights +52; Jefferson +77; Mt. Vernon +56.

The desired outcome is that the State Board of Education accepts the waiver of Ed Code 52055.740(a) (4) so that improved student academic performance may continue.

8. Demographic Information:

Bakersfield City School District has a student population of 27,688 and is located in an urban area in Kern County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
	Superintendent	February 23, 2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 22-4-2011 **Period of Request:** July 1, 2010, to June 30, 2011
Silver Wing Elementary School
Chula Vista Elementary School District 37-68023

LEA Request:

Chula Vista Elementary School District (ESD) is an urban school district located in San Diego County. Silver Wing Elementary School (ES) serves students in kindergarten through grade six. Chula Vista ESD has a student population of approximately 27,400 students. Chula Vista ESD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Chula Vista ESD TEI is 6.5. Chula Vista ESD's average TEI for 2010–11 for this type of school is 8.05.

Chula Vista ESD states that its TEI was calculated using erroneous information that had been entered on the school's CBEDS report. A recalculation of the TEI was performed with the help of the San Diego County Office of Education and discrepancies were corrected during that process. Chula Vista ESD and the Chula Vista Educators are currently negotiating a Memorandum of Understanding to implement a transfer policy and procedures to address TEI issues. Chula Vista ESD requests a waiver of the QEIA TEI target for Silver Wing ES and establishment of an alternative TEI target of 5.2 which is based on 2010–11 TEI levels. The 2010–11 TEI alternative target of 5.2 for Silver Wing ES is less than Chula Vista ESD's 2010–11 TEI average of 8.05 for this type of school.

Additional LEA and School Information for Consideration:

School Locale Code	11*
LEA Average Daily Attendance (ADA)	27,400
School ADA	418
Grade Span	K–6
Total Number Of Schools With Similar Grade Span	38 elementary
2005–06 TEI	6.5
2010–11 QEIA School TEI	5.2
2010–11 Similar Type School TEI	8.05
Percent Of Similar Type School	64.6
Made API Growth?	Yes
Made AYP?	No

*City Large: Territory inside an urbanized area and inside a principal city with population of 250,000 or more.

CDE Recommendation and Conditions:

The California Department of Education recommends denial of this request because the educational needs of the pupils are not adequately addressed. Specifically, (1) QEIA program requirements were known to the district prior to its decision to apply for program participation; (2) QEIA funding is expected to result in increased teacher experience over time; (3) the District has approximately 38 elementary schools from which to draw experienced teachers to meet the QEIA TEI requirements; and (4) this District of more than 27,400 students is located in a large urban region in which transfers of teachers to meet QEIA requirements and maintain funding is a reasonable expectation.

Reviewed by Silver Wing Elementary Schoolsite Council on March 28, 2011.

Supported by Chula Vista Educators on March 9, 2011.

Local Board Approval: April 5, 2011.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	0	2	3

Local educational agency: Chula Vista Elementary School District	Contact name and Title: Emma Sanchez, Executive Director of Language Acquisition & Development	Contact person's e-mail address: emma.sanchez@cvesd.org
Address: (City) (State) (ZIP) 84 East J Street, Chula Vista, CA 91910		Phone (and extension, if necessary): 619-425-9600 x 1521 Fax Number: 619-420-3743
Period of request: (month/day/year) From: July 1, 2010 To: June 30, 2011	Local board approval date: (Required) April 15, 2011	Date of public hearing: (Required) April 5, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

   Topic of the waiver: QEIA – Timeline for Meeting Teacher Experience Index

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 9, 2011

   Name of bargaining unit and representative(s) consulted: Chula Vista Educators – Peg Meyers, President

   The position(s) of the bargaining unit(s): __ Neutral x_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): Need to work together to either transfer or place teachers who volunteer to be assigned at Silver Wing

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper ___ Notice posted at each school _X_ Other: *(Please specify)* - Posted at District

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Silver Wing Elementary School Site Council kak 5/16/11
   Date the committee/council reviewed the waiver request: March 28, 2011

   Were there any objection(s)? No _x_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Chula Vista Elementary School District requests a waiver of the timeline in Ed Code Section 52055.740solelyas it pertains to the Teacher Experience Index (TEI)as referenced in 52055.740(a) for Silver Wing Elementary School. The QEIA Teacher Experience Index (TEI) was calculated using erroneous information that had been entered on the school's CBEDS report. A recalculation of the TEI was done with the help of the San Diego County Office of Education and discrepancies during the recalculation. Chula were corrected Vista Elementary School Districta nd Chula Vista Educators are currently negotiating a Memorandum of Understanding policy and procedures school year to implement transfer to remedy the TEI for the 2011-12 and sustain it through the remainder of the QEIA settlement agreement. The school's current teacher experience average is 5.2yearsandthe target is 6.5years.TheTEI target of 6.5yearswill be met through these efforts effective with the 2011-12 school year; the timeline change requested through this waiver application is approximately six (6) weeks.

8. Demographic Information:
Chula Vista Elementary School District has a student population of 27,400 and is located in an urban area in San Diego County.

Silver Wing 418, K-6

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☐ Yes ☒
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 4-4-2011 **Period of Request:** July 1, 2010, to June 30, 2014
McKinley Elementary School
Petaluma City Elementary School District 49-70854

LEA Request:

Petaluma City Elementary School District (ESD) is an urban school district located in Sonoma County. McKinley Elementary School (ES) was reconfigured in 2010–11 from a kindergarten through grade six school to a grade four through six school to better serve students. Petaluma City ESD has a student population of approximately 2,400 students. Petaluma City ESD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average Petaluma City ESD TEI was 7.2. Petaluma City ESD's average TEI for 2010–11 for this type of school is 8.5.

Petaluma City ESD states that several experienced teachers transferred to the kindergarten through grade three school because of the reconfiguration and this left four certificated positions to be filled. Petaluma City ESD advertised the positions as requiring at least five years of experience; however, they were unable to find four applicants that met their teaching standards. Petaluma City ESD made the decision to hire teachers with fewer than five years experience and this ultimately affected the TEI at McKinley ES. Petaluma City ESD requests a waiver of the QEIA TEI target for McKinley ES and establishment of an alternative TEI target of 6.48 which is based on 2010–11 TEI levels. The 2010–11 TEI alternative of 6.48 for McKinley ES is less than Petaluma City ESD's 2010–11 TEI average of 8.5 for this type of school.

Additional LEA and School Information for Consideration:

School Locale Code	13*
LEA Average Daily Attendance (ADA)	2,421
School ADA	212
Grade Span	4–6
Total Number Of Schools With Similar Grade Span	6 elementary
2005–06 TEI	7.2
2010–11 QEIA School TEI	6.48
2010–11 Similar Type School TEI	8.5
Percent Of Similar Type School	76.2
Made API Growth?	Yes
Made AYP?	No

*City Small: Territory inside an urbanized area and inside a principal city with population less than 100,000.

CDE Recommendation and Conditions:

The California Department of Education recommends denial of this request because the educational needs of the pupils are not adequately addressed. Specifically, (1) QEIA program requirements were known to the District prior to its decision to apply for program participation; (2) QEIA funding is expected to result in increased teacher experience over time; and (3) the District has approximately six elementary schools to draw experienced teachers from to meet the QEIA TEI requirements.

Reviewed by Petaluma City Schoolsite Council on February 10, 2011.

Supported by Petaluma Federation of Teachers on March 9 and 10, 2011.

Local Board Approval: March 15, 2011.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	9	7	0	8	5	4

Local educational agency: Petaluma City Schools	Contact name and Title: Steve Bolman, Deputy Superintendent Business / Administration	Contact person's e-mail address: steveb@pet.k12.ca.us
Address: (City) (State) (ZIP) 200 Douglas Street, Petaluma, CA 94952		Phone (and extension, if necessary): (707) 778-4621 Fax Number: (707) 778-4736
Period of request: (month/day/year) From: ~~8/13/10~~ **7/1/2010** To: 6/30/14	Local board approval date: (Required) March 15, 2011	Date of public hearing: (Required) March 15, 2011

Jb 6/2/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.730d, 52055.740D4 and 52055.750a10 Circle One: ***EC*** or *CCR*

Topic of the waiver: QEIA Teacher Years of Experience

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No x Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 9, 2011 and March 10, 2011

Kak 4/5/11

Name of bargaining unit and representative(s) consulted: Petaluma Federation of Teachers / Ted Russo, PFT President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Petaluma City School Site Council **kak 4/7/11 per S. Merrill**
Date the committee/council reviewed the waiver request: 2/10/11

Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.730d,

52055.740D4 -Using the index established under Section 52055.730, have an average experience of classroom teachers in the school equal to or exceeding the average for the school district for this type of school.

52055.750a10

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

We are requesting a waiver regarding the required years of experience. Our district average is 7.2 years of experience. This year we reconfigured the school from a K-6 school to a 4-6 school to better serve our students. In the reconfiguration several experienced teachers transferred to the K-3 school, leaving four certificated positions that had to be filled. Human Resources advertised the job as requiring at least five years of experience which would have allowed us to comply with the requirement of matching the district average; however after interviewing sixteen applicants, we were unable to find four applicants that met our teaching standards. Since we were unable to fill the positions before school started in August, we started school with a substitute teacher. In September we made the decision to hire a teacher with less than five years experience and currently our teachers' average years of experience is 6.8, slightly below the district average of 7.2. In the three years that we have been receiving QEIA funds, students in the classes of the three teachers at the site with the lowest number of years of experience (three, four, and five years respectively) have shown the greatest growth in achievement.

Given the many teacher lay offs in California, an experienced teacher is not inclined to give up a permanent position to take another job with no job security. In addition, many excellent teachers with less than five years experience who have been laid off are applying for positions. We are seeking a waiver to allow us to drop below the district average years of teaching experience in order to fill positions with high quality teachers.

8. Demographic Information:

McKinley School has a student population of 212 and is located in a small city in Sonoma County. Approximately 80% or our students are second language learners and 93% receive free/reduced lunch.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 30, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Waiver Number: 13-5-2011 **Period of Request:** July 1, 2010, to June 30, 2011
Mann Middle School
San Diego Unified School District 37-68338

LEA Request:

San Diego Unified School District (USD) is an urban school district located in San Diego County. Mann Middle School (MS) serves students in grades six through eight. San Diego USD has a student population of 131,466 students. San Diego USD provided teacher experience information from 2005–06, the base year upon which Quality Education Investment Act (QEIA) Teacher Experience Index (TEI) targets are calculated, showing that the average District TEI is 6.6. San Diego USD's average TEI for 2010–11 for this type of school is 8.22.

San Diego USD states that due to the restructuring of Mann MS, the effects of the reconfiguration resulted in a mass departure of most of the staff members at the school. Few experienced teachers applied for the vacancies, which resulted in Mann MS hiring newer teachers who had fewer than three years of teaching experience at the time. Mann MS has maintained a stable teaching staff for the past three years, but is still below the District TEI level. San Diego USD requests a waiver of the QEIA TEI target for Mann MS and establishment of an alternative TEI target of 5.5, which is based on 2010–11 TEI levels. The 2010–11 TEI alternative target of 5.5 for Mann MS is less than San Diego USD's 2010–11 TEI average of 8.22 for this type of school.

Additional LEA and School Information for Consideration:

School Locale Code	11*
LEA Average Daily Attendance (ADA)	131,466
School ADA	1,000
Grade Span	6–8
Total Number Of Schools With Similar Grade Span	24 MS
2005–06 TEI	6.6
2010–11 QEIA School TEI	5.5
2010–11 Similar Type School TEI	8.22
Percent Of Similar Type School	66.9
Made API Growth?	Yes
Made AYP?	No

*City Large: Territory inside an urbanized area and inside a principal city with population of 250,000 or more.

CDE Recommendation and Conditions:

The California Department of Education recommends denial of this request because the educational needs of the pupils are not adequately addressed. Specifically, (1) QEIA program requirements were known to the district prior to its decision to apply for program participation; (2) QEIA funding is expected to result in increased teacher experience over time; (3) the District has approximately 24 middle schools from which to draw experienced teachers to meet the QEIA TEI requirements; and (4) this District of more than 131,000 students is located in a large urban region in which transfers of teachers to meet QEIA requirements and maintain funding is a reasonable expectation.

Reviewed by Mann Middle Schoolsite Council on February 1, 2011.

Supported by San Diego Education Association on March 28, 2011.

Local Board Approval: February 22, 2011.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	3	3	8

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Diego Unified School District	Ron Rode Executive Director, Office of Accountability	rrode@sandi.net

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
4100 Normal Street, Room 2232, San Diego, CA 92103	619-725-7190 Fax Number: 619-725-7180

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: ~~August~~ **July** 1, 2010 To: June 30, 2011	February 22, 2011	February 22, 2011

Jb 8/19/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number**): 52055.740(a)(4)** Circle One**: X *EC*** or *CCR*

   Topic of the waiver: Quality Education Investment Act (QEIA) Teacher Experience Index

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): **March 28, 2011** **per Elizabeth Kramer** **jb 5/12/11**

   Name of bargaining unit and representative(s) consulted:
   San Diego Education Association: Bill Freeman, President

   The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* Posted on district website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Mann Middle School Site Council

   Date the committee/council reviewed the waiver request: February 1, 2011

   Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
EC Section 52055.740 (a)(4)

(4) Using the index established under Section 52055.730, have an average experience of classroom teachers in the school ~~equal to or exceeding the average~~ for the school district for this type of school.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

On behalf of Mann Middle School, the San Diego Unified School District requests an adjustment in the QEIA Teacher Experience Index target for 2010-11 school year, from 6.6 to 5.5 years of average teacher experience.

Mann Middle School has 57 teachers with 453 actual years of experience collectively. This is an average of 7.9 years. However, using the QEIA Teacher Experience Index, the average years of teaching experience is 5.7.

2010-11 School Year	Actual Years Experience for 57 teachers	QEIA TEI Adjusted Years for 57 teachers
Total Years of teaching experience	453	324
Average	7.95 years	5.68 years

~~**SEE ATTACHED PAGES**~~ **jb 8/19/11**

8. Demographic Information:
San Diego Unified School District has a student population of 131,466 and is located in an *urban* in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Executive Director, Office of Accountability	Date: February 22, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

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

SUMMARY OF THE ISSUE(S)

1. State Board of Education Draft September 2011 Meeting Minutes
2. Board member liaison reports

RECOMMENDATION

The SBE staff recommends that the SBE approve the September 2011 SBE Minutes (Attachment 3).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

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

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Attachment 1: Acronyms Chart (3 Pages)

Attachment 2: Bylaws for the California State Board of Education, amended July 9, 2003, may be viewed at the following link: *http://www.cde.ca.gov/be/ag/ag/bylawsoct2002.asp*.

Attachment 3: State Board of Education Draft September 2011 Meeting Minutes (34 Pages)

ACRONYMS CHART

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

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

California State Board of Education
August 11, 2011

State Board of Education
California Department of Education Board Room
September 7-8, 2011
Preliminary Report of Actions/Draft Minutes

Please note that the complete proceedings of the September 7-8, 2011, State Board of Education meeting, including close-captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
Jim Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James Ramos
Patricia Rucker
Ilene Straus
Caitlin Snell, Student Member

Members Absent:
None.

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction

Principal Staff
Sue Burr, Executive Director, SBE
Patricia de Cos, Deputy Executive Director, SBE
Judy Cias, Chief Counsel, SBE
Camille Esch, Principal Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Richard Zeiger, Chief Deputy Superintendent, CDE
Deb Sigman, Deputy Superintendent, CDE
Amy Holloway, General Counsel, CDE
Mary Prather, Education Administrator I, CDE

Public Session

September 7, 2011

CLOSED SESSION

There was no Closed Session.

Item 1
Subject: Parent Empowerment — Adopt Proposed Changes to the *California Code of Regulations*, Title 5, Sections 4800–4808.

ACTION: Member Chan moved to take CDE's recommendation to:

- Approve the Final Statement of Reasons;
- Formally adopt the proposed regulations approved by the SBE at the July 2011 meeting;
- Direct the California Department of Education (CDE) to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Straus seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Item 2
Subject: Update on the Activities of the California Department of Education and State Board of Education Regarding Implementation of the Common Core State Standards and the Developments of the New Assessment System.

NO ACTION TAKEN.

Item 3
Subject: California College, Career, and Technical Education Center: Consider Issuing a Notice of Intent to Revoke Pursuant to *Education Code* Section 47607(e).

NO ACTION TAKEN.

The public hearing planned for this item was cancelled because the CCCTEC governing board took action to voluntarily close the school and surrender the charter.

State Board President Kirst made the following statement:

> On September 2, 2011, the Board of Directors of the California College, Career, and Technical Education Center took action to voluntarily relinquish the charter granted by the SBE and close the school, effective immediately. The board transferred all student records to the Yolo County Office of Education in order to help facilitate the enrollment of students in another appropriate school. Mr. Preston also agreed to notify the parents of students of the school's closure.
>
> When this issue was discussed at the July SBE meeting and ACCS meeting, members expressed concern that CCCTEC staff had not been paid. By resolution, the CCCTEC board agreed to not dispose of or liquidate any financial assets and to provide an accounting of money owed to staff as well as to the State and other creditors. The board also directed Mr. Preston to dissolve the CCCTEC corporation, repay liabilities to the extent possible, and authorized Mr. Preston to file for bankruptcy for the CCCTEC nonprofit corporation and the charter school so that creditors can be repaid.
>
> Pursuant to the terms of the charter and the MOU, Mr. Preston will work with CDE staff to implement the closure procedures.
>
> As a result of the CCCTEC board's action to voluntarily close the school and relinquish the charter, the SBE does not need to take action to revoke the charter. Therefore, Items #3 and #16 are withdrawn from the agenda.
>
> I'd like to thank the CDE staff for all of their hard work on this issue. I know this has been difficult for everyone involved."

Following President Kirst's statement, the Board heard comments from the school's administrator and CDE staff. Please visit the website link given above to view the complete proceedings.

Item 4

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

ACTION: Member Aschwanden moved to take CDE's recommendation to approve the Local Educational Agency (LEA) Plans listed in Attachment 1 to this item.

Member Cohn seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Item 5
Subject: Elementary and Secondary Education Act Update: School Improvement Grant: Status of Renewal of Funding for Year 2 of Cohort 1 Fiscal Year 2009 Local Educational Agencies and Schools for the Sub-Grants Under Section 1003(g), and other Elementary and Secondary Education Act Updates as Appropriate.

ACTION: Member Cohn moved to adopt CDE's recommendation to authorize SBE President, Michael Kirst, in conjunction with State Superintendent of Public Instruction, Tom Torlakson, to approve funding for Year 2 of Cohort 1 School Improvement Grant (SIG) contingent on SIG local educational agencies (LEAs) submitting a Corrective Action Plan to address implementation concerns identified during the monitoring and review process.

Member Ramos seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

ACTION: Member Cohn moved to adopt CDE's recommendation to approve California's application for a waiver of the requirement in Section I.A.2(d)(1)(i)(B) of the final requirements for the SIG program, which, if granted, will permit LEAs to take additional time to develop and implement teacher and principal evaluation systems according to criteria that CDE will develop.

Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, Rucker.

No votes: None.

Item 6
Subject: Public Charter Schools Grant Program: Update, Including, But Not Limited to, the 2010–15 Grant Award and Revisions to *California Code of Regulations*, Title 5, Section 11968.5.

ACTION: Member Williams moved to direct CDE to work with SBE staff, the SBE charter liaisons, and charter school stakeholders to gather more information from the U.S. Department of Education, particularly regarding the Public Charter Schools Grant Program (PCSGP) funding formula, and develop a stronger, more detailed case regarding California's eligibility for PCSGP funds.

Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

ACTION: Member Williams moved to ask CDE to work with SBE staff, the SBE liaisons, and stakeholder groups to 1) investigate statutory or regulatory changes that may be needed, 2) develop a framework or roadmap for meeting Assurances 3A and 3B of the PCSGP application in a way that includes multiple measures of academic achievement, 3) continue a proactive discussion with the U.S. Department of Education related to these issues, and 4) report back to SBE in November 2011.

Member Aschwanden seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, Rucker.

No votes: None.

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

Item 7
Subject: New West Charter Middle School: Consideration of Petition to Renew Charter Currently Authorized by the State Board of Education.

ACTION: Member Williams moved to approve the recommendation of CDE and the Advisory Commission on Charter Schools (ACCS) to renew New West Charter Middle School's charter for a five-year term beginning July 1, 2012, and ending June 30, 2017, with the following provisions:

- The SBE Conditions on Opening and Operation, as set forth in Attachment 1 to this item.

- Modifications to the charter in accordance with the CDE report, as set forth in detail in Attachment 2 to this item, and as follows:

    - Description of Educational Program, *Education Code* (*EC*) Section 47605(b)(5)(A) and 5 CCR 11967.5.1(f)(1)(F): A technical amendment to the NWCMS charter petition to include a description of an educational program that commits to narrowing the achievement gap between socioeconomically disadvantaged and non-socioeconomically disadvantaged pupils.

    - Racial and Ethnic Balance, *EC* Section 47605(b)(5)(G) and *California Code of Regulations,* Title 5 (5 *CCR*) Section 11967.5.1(f)(7):A technical amendment to the NWCMS charter petition to require submission of an annual report to the CDE addressing the outreach plan to ensure racial and ethnic balance reflective of Los Angeles Unified School District (Los Angeles USD) District 3 schools. This report should be submitted by October 31 of each year and contain demographic information about pupils who applied, pupils who were selected in the lottery process, and pupils who enrolled in the school. If in any year progress is not made toward achieving racial and ethnic balance, this report should also include specific, measurable goals and activities that the school will implement before the next application period and lottery determination.

    - Admission Requirements, *EC* Section 47605(d)(2): A technical amendment to the NWCMS charter to ensure that the admission requirements comply with applicable federal and state laws, specifically *EC* Section 47605(d)(2), which requires admission preference be given to returning students and pupils of the local school district as well as pupils who qualified for free and reduced lunch in their prior school. Also a technical amendment to revise the admission packet to include only necessary information for the student to be in the lottery for admission (i.e. name, address, current school, and parent information), with all other information including student test scores, report cards, student work to be gathered once a student is admitted to NWCMS.

- Suspension and Expulsion Procedures, 5 *CCR* 11967.5.1(f)(10): Technical amendments to the petition to meet the requirements of 5 *CCR* 11967.5.1(f)(10)(D), ensuring that NWCMS review non-charter school lists of offenses and procedures in preparing their list. Additionally, NWCMS needs to provide an assurance that the policies and procedures surrounding suspension and/or expulsion will be amended periodically in accordance with 5 *CCR* 11967.5.1(f)(10)(E)(2).

- Public School Attendance Alternatives, *EC* Section 47605(b)(5)(L): A technical amendment to the NWCMS petition to ensure that the parents of NWCMS students are informed that a pupil has no right to admission in a particular school of any local education agency (LEA) as a consequence of enrollment in NWCMS, except to the extent that such a right is extended by the LEA.

- Public School Attendance Alternatives, *EC* Section 47605(b)(5)(L): A technical amendment in the NWCMS petition to reflect that the SBE is not an LEA and therefore may choose to resolve a dispute directly instead of pursuing the dispute resolution process proposed in NWCMS's petition. Additionally, the petition must describe how the costs of the dispute resolution process, if needed, would be funded.

Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

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

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

Item 8
Subject: New West Charter Middle School: Material Revision Request to Expand From Grades Six Through Eight to Grades Six Through Twelve School and to Change Location of the School.

ACTION: Member Chan moved to approve the recommendation of CDE and the Advisory Commission on Charter Schools (ACCS) to approve the material revision request for New West Charter Middle School (NWCMS) to add grades nine through twelve and change the location of the school effective July 1, 2012.

Member Cohn seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Molina, Williams, and Rucker.

No votes: None.

Not present: Member Straus.

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

Item 9
Subject: Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools for Carter G. Woodson Charter, Gold Rush Charter, Julian Charter, Mojave River Academy and W.E.B. DuBois Charter.

ACTION: Member Straus moved to adopt the recommendation of CDE and the ACCS to approve the funding rates for nonclassroom-based instruction in charter schools as listed in Attachment 2 to the item.

Member Williams seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, Rucker.

No votes: None.

Item 10
Subject: Consideration of Requests From Nonclassroom-based Charter Schools for "Reasonable Basis"/Mitigating Circumstances Changes in Funding Determinations Based on the *California Code of Regulations*, Title 5, Section 11963.4(e) for California Virtual Academy San Diego, Crossroads Trade Tech Charter, Northwest Prep Piner Olivet, Options for Youth Hermosa Beach, Options for Youth San Bernardino, Options for Youth Victorville, Opportunities for Learning Baldwin Park, Opportunities for Learning Baldwin Park II, Opportunities for Learning Hermosa Beach and Opportunities for Learning Santa Clarita.

ACTION: Member Chan moved to adopt the recommendation of CDE and the ACCS to approve the requests to allow the inclusion of mitigating circumstances in the determination of funding rates required by California *Education Code* (*EC*) Sections 47612.5 and 47634.2 and implemented through *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.4(e) as follows:

- California Virtual Academy San Diego (Charter # 0493) – 100% for 4 years
- Crossroads Trade Tech Charter (Charter # 0992) – 100% for 2 years
- Northwest Prep Piner Olivet (Charter # 0526) – 100% for 2 years

Member Straus seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

ACTION: Member Aschwanden moved to adopt the recommendation of CDE and the ACCS to approve the determination rates contained in Attachment 1 to this item for:

- Options for Youth San Bernardino (Charter # 1132) – 100% for 2 years
- Opportunities for Learning Baldwin Park (Charter # 0402) – 85% for 2 years
- Opportunities for Learning Baldwin Park II (Charter # 0874) – 85% for 2 years

Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

ACTION: Member Chan moved to approve the following determination rates for:

- Options for Youth Hermosa Beach (Charter # 1131) - 70% for 2 years
- Options for Youth Victorville (Charter # 0013) – 70% for 2 years
- Options for Learning Hermosa Beach (Charter # 1130) – 85% for 2 years
- Options for Learning Santa Clarity (Charter # 0214) – 85% for 2 years

Member Cohn seconded the motion.

Yes votes: Members Snell, Chan, Cohn, Kirst, Williams, and Straus.

No votes: Members Aschwanden, Ramos, Molina, and Rucker.

(The motion passed with six votes.)

Item 11

Subject: Charter Revocation and Revocation Appeals - Approve Commencement of a Fourth 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations,* Title 5, Sections 11965, 11968.1, 11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5, and 11969.1.

ACTION: Member Aschwanden moved to adopt CDE's recommendation to:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a fourth 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the fourth 15-day public comment period, deem the proposed regulations adopted, and direct CDE to complete the rulemaking package and resubmit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the fourth 15-day public comment period, direct CDE to place the proposed regulations on the SBE's November 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Ramos seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

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

September 8, 2011

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
Jim Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James Ramos
Patricia Rucker
Ilene Straus
Caitlin Snell, Student Member

Members Absent:
None

CLOSED SESSION

State Board President Kirst reported that the Board deliberated on pending cases but took no action during the Closed Session.

AGENDA ITEMS

Item 12
Subject: STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest. At this meeting, counsel will present training on the Bagley-Keene Open Meeting Act.

ACTION: Member Aschwanden moved to adopt the minutes from the July 2011 SBE meeting.

Member Ramos seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Item 13
Subject: Assessment and Accountability Update, Including, but Not Limited to, Standardized Testing and Reporting Results, California High School Exit Examination Results, and the Accountability Progress Reporting System 2011 Release.

NO ACTION TAKEN.

Item 14
Subject: Annual Report on Dropouts in California.

NO ACTION TAKEN.

Item 15
Subject: Standardized Testing and Reporting Program: Approval of California Modified Assessment Proposed Performance Standards Setting for English-Language Arts in Grade Ten and Eleven and Geometry and to Conduct the Regional Public Hearings.

ACTION: Member Chan moved to take CDE's recommendations to approve the State Superintendent of Public Instruction's (SSPI's) proposed performance standards (levels) for the California Modified Assessment (CMA) for English-language arts (ELA) in grades ten and eleven and Geometry, and to conduct regional public hearings on the proposed performance standards (levels) for the CMA for ELA in grades ten and eleven and Geometry to be brought to the SBE in November 2011 for adoption.

Member Straus seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Rucker.

No votes: None.

Abstained: Member Molina

Item 16
Subject: California College, Career, and Technical Education Center: Hold a Public Hearing and Consider Revocation Pursuant to *Education Code* Section 47607(e).

NO ACTION TAKEN.

The public hearing planned for this item was cancelled because the school closed voluntarily. See Item 3, above.

*****WAIVERS ON CONSENT*****

ACTION: Member Aschwanden moved to approve CDE's recommendations on waivers W-2, W-6 through W-12, W-29 through W-48, and W-50, with a correction to W-43 to change the effective date in the conditions from 2011-12 to 2012-13.

Member Cohn seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

CHARTER SCHOOL PROGRAM (Pupil Teacher Ratio)
Item W- 2
Subject: Request by Nevada County Office of Education to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, Sections 11704, and portions of 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from a 25:1 to a 27:1 pupil-to-teacher ratio at Twin Ridges Home Study Charter School.
Waiver Number: 38-5-2011
(Recommended for APPROVAL WITH CONDITIONS)
(Meets Waiver Policy: Independent Study Average Daily Attendance (ADA)-to-Teacher Ratio)

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities and Commingle Grade Levels)
Item W-6
Subject: Request by Novato Unified School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of a community day school on the same site as a continuation high school and independent study center.
Waiver Number: 21-5-2011
(Recommended for APPROVAL)
(Meets SBE Streamlined Waiver Policy: SBE Streamlined Waiver Policy)

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities)

Item W-7
Subject: Request by Shasta Union High School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of Freedom Community Day School on the same site as Shasta High School, University Prep School, Pioneer High School, and North State Independence High School.
Waiver Number: 29-5-2011
(Recommended for APPROVAL)
(Meets SBE Streamlined Waiver Policy: SBE Streamlined Waiver Policy)

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities)
Item W-8
Subject: Request by Barstow Unified School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of School of Opportunity, a community day school, on the same site as Central High School, a continuation high school.
Waiver Number: 4-6-2011
(Recommended for APPROVAL)

COMMUNITY DAY SCHOOLS (CDS) (Collocate Facilities)
Item W-9
Subject: Request by Chico Unified School District for renewal of a waiver of California *Education Code* Section 48661(a) to permit the collocation of Academy for Change Community Day School and the Center for Alternative Learning Opportunity School at the Fair View Continuation School.
Waiver Number: 39-5-2011
(Recommended for APPROVAL) *EC* 33051(b) will apply

COMMUNITY DAY SCHOOLS (CDS) (Colocate Facilities)
Item W-10
Subject: Request by Palo Verde Unified School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of Palo Verde Community Day School on the same site as Twin Palms Continuation High School.
Waiver Number: 34-5-2011
(Recommended for APPROVAL)

COMMUNITY DAY SCHOOLS (CDS) (Commingle Grade Levels)
Item W-11
Subject: Request by Riverdale Joint Unified School District for renewal of a waiver of California *Education Code* Section 48916.1(d) and portions of *Education Code* Section 48660 to permit a community day school to serve students in grades five through six with students in grades seven through twelve.
Waiver Number: 26-5-2011
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

FEDERAL PROGRAM WAIVER (Carl D. Perkins Voc and Tech Ed Act)
Item W-12
Subject: Request by seven districts for a 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-63-2011, Fed-64-2011, Fed-65-2011, Fed-66-2011, Fed-68-2011, Fed-69-2011, and Fed-70-2011
(Recommended for APPROVAL)
(Meets Waiver Policy:
http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc)

SALE OR LEASE OF SURPLUS PROPERTY (Lease of Surplus Property)
Item W-29
Subject: Request by Norwalk-La Mirada Unified School District to waive all of California *Education Code* Sections 17473 and 17474 and portions of 17466, 17472, and 17475 regarding competitive bidding process for the lease of a surplus property (unused former school property). The district has entered into a long-term lease with Biola University for approximately half of 8.8 acres located at 14540 San Cristobal Drive, La Mirada, and wishes to lease the balance of facility and land using non-competitive bidding.
Waiver Number: 48-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOL CONSTRUCTION BONDS (Citizens Oversight Comittee - Term Limits)
Item W-30
Subject: Request by Montebello Unified School District to waive portions of the California *Education Code* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the district.
Waiver Number: 15-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Shared Schoolsite Council)
Item W-31
Subject: Request by Surprise Valley Joint Unified under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for four small schools: Surprise Valley Jr/Sr High School, Surprise Valley Elementary School, Surprise Valley Community Day School, and Great Basin Continuation High School.
Waiver Number: 37-5-2011
(Recommended for APPROVAL WITH CONDITIONS)
(Meets Waiver Policy: Schoolsite Councils for Small Schools Sharing Common Services or Attendance Areas)

SCHOOLSITE COUNCIL STATUTE (Shared Schoolsite Council)
Item W-32
Subject: Request by Merced County Office of Education under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for Valley Community School, Valley Los Banos Community Day School, Valley Atwater Community Day School, and Merced County Juvenile Hall/Community School.
Waiver Number: 14-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-33
Subject: Request by Carpinteria Unified School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small school, Rincon Continuation High School
Waiver Number: 56-4-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-34
Subject: Request by Carpinteria Unified School District District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small school, Summerland Elementary School.
Waiver Number: 61-4-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-35
Subject: Request by Kern Union High School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Summit Continuation High School.
Waiver Number: 26-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-36
Subject: Request by Kern Union Highn School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required

for a schoolsite council for a small school, Central Valley Continuation High School.
Waiver Number: 25-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-37
Subject: Request by Sausalito Marin City School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Bayside Elementary School and Martin Luther King Jr. Academy Middle School.
Waiver Number: 18-5-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Number and Composition of Members)
Item W-38
Subject: Request by Trinity Center Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Trinity Center Elementary School.
Waiver Number: 7-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SCHOOLSITE COUNCIL STATUTE (Shared Schoolsite Council with Reduced Number and Composition)
Item W-39
Subject: Request by Carpinteria Unified School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small school, Carpenteria Family School.
Waiver Number: 57-4-2011
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Algebra I Requirement for Graduation)
Item W-40
Subject: Request by California Education Authority (CEA) Headquarters to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 42-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Algebra I Requirement for Graduation)
Item W-41
Subject: Request by Castro Valley Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 41-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Algebra I Requirement for Graduation)
Item W-42
Subject: Request by Simi Valley Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010−11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 55-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Educational Interpreter for Deaf and Hard of Hearing)
Item W-43
Subject: Request by Sutter County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Julie Nelson to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum requirements.
Waiver Number: 40-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

SPECIAL EDUCATION PROGRAM (Extended School Year (Summer School))
Item W-44
Subject: Request by Coachella Valley Unified School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.
Waiver Number: 54-4-2011
(Recommended for APPROVAL WITH CONDITIONS)
(Consent due to meeting California Code of Regulations, Title 5, Section 3043(d))

SPECIAL EDUCATION PROGRAM (Extended School Year (Summer School))
Item W-45
Subject: Request by National Elementary School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year service for special education students.
Waiver Number: 18-6-2011
(Recommended for APPROVAL WITH CONDITIONS)
(Consent due to meeting California Code of Regulations, Title 5, Section 3043(d))

SPECIAL EDUCATION PROGRAM (Non Public Agency (NPA or School (NPS) Annual Renewal of Certification)
Item W-46
Subject: Request by Napa Valley Unified School District Special Education Local Plan Area under authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August through October 31 timeline for an annual certification renewal application, for My Therapy Company, a nonpublic agency.
Waiver Number: 62-4-2011
(Recommended for APPROVAL)
(Meets Waiver Policy: Nonpublic School/Agency Certification (Annual Renewal Application Deadline)

SPECIAL EDUCATION PROGRAM (Non Public Agency (NPA or School (NPS) Annual Renewal of Certification)
Item W-47
Subject: Request by Santa Barbara County Local Plan Area under authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August through October 31 timeline for an annual certification renewal application, for The Language Center, a nonpublic agency.
Waiver Number: 23-6-2011
(Recommended for APPROVAL)
(Meets Waiver Policy: Nonpublic School/Agency Certification (Annual Renewal Application Deadline)

SPECIAL EDUCATION PROGRAM (Resource Teacher Caseload)
Item W-48
Subject: Request by Poway Unified School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* Section 56362(c), allowing the caseload of the resource specialist to exceed the maximum caseload of 28 students by no more than four students (32 maximum). Julie Goodwin is assigned to Monterey Ridge Elementary School.
Waiver Number: 3-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

(Meets California Code of Regulations, Title 5, Section 3100(d)(2))

STATE TESTING APPORTIONMENT REPORT (CELDT)
Item W-50
Subject: Request by four local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.
Waiver Number: 8-6-2011, 17-6-2011, 19-5-2011, and 22-5-2011
(Recommended for APPROVAL)
(Meets Waiver Policy: State Testing Apportionment Informational Report Deadline)

*****END OF WAIVERS ON CONSENT*****

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-25
Subject: Request by Los Angeles Unifies School District to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index, Highly Qualified Teacher requirements, and Williams's settlement agreement requirements under the Quality Education Investment Act, so that the full implementation of these programmatic requirements is not required until 2012–13 at Alain LeRoy Locke Charter High School, Animo Locke #1, Animo Locke #2, Animo Locke #3, and Animo Locke ACE Academy.
Waiver Number: 8-5-2011
(Recommended for DENIAL)

THIS ITEM WAS WITHDRAWN BY THE DISTRICT.

*****WAIVERS NOT ON CONSENT*****

CHARTER SCHOOL PROGRAM (Attendance Accounting for Multi-Track)
Item W-1
Subject: Request by eight school districts to waive portions of *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (5 tracks; 175 days).
Waiver Numbers: 16-6-2011, 50-6-2011, 1-7-2011, 2-7-2011, 3-7-2011, 5-7-2011, 6-7-2011, and 8-7-2011.

(Fresno County Office of Education withdrew its waiver application, # 27-6-2011).

(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply
(Meets Waiver Policy: Charter School ADA: Alternative Calculation Method)

ACTION: Member Aschwanden moved to approve the requests, with the conditions listed in the attachment to this item, and modified to one-year waivers.

Member Molina seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Member Rucker recused herself from discussion of this item.

CLASS SIZE PENALTIES (Over Limit on Grades 1-3)
Item W-3
Subject: Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Sections 41376 (a), (c), and (d) relating to class size penalties for grades one through three. For grades one through three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 24-6-2011, 28-6-2011, and 25-5-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's recommendation to approve the waiver request with the conditions listed in the attachment to this item.

Member Straus seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Molina.

No votes: None.

Recused: Member Rucker.

Member Rucker recused herself from discussion of this item.

CLASS SIZE PENALTIES (Over Limit on Grades 4-8)
Item W-4
Subject: Request by five districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to 1 or the district's 1964 average.
Waiver Numbers: 2-6-2011, 46-6-2011, 45-6-2011, 31-6-2011, and 47-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Molina moved to approve CDE's recommendation to 1) approve the waiver requests for Panama-Buena Vista Union School District and Solvang Elementary School District, with the conditions listed in the attachment to this item, and 2) hold over until the November Board meeting the waiver requests for Banning Unified School District, Center Joint Unified School District, and Inglewood Unified School District.

Member Ramos seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Molina.

No votes: None.

Recused: Member Rucker.

Member Rucker recused herself from discussion of this item.

CLASS SIZE PENALTIES (Over Limit on Kindergarten – Grade 3)
Item W-5
Subject: Request by seven districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to 1 with no class larger than 33. For grades one through three, the overall class size average is 30 to 1 with no class larger than 32.
Waiver Numbers: 1-6-2011, 22-6-2011, 43-6-2011, 28-5-2011, 37-6-2011, 11-6-2011, and 30-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's recommendation to approve the waiver requests, with the conditions listed in the attachment to this item.

Member Ramos seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Molina.

No votes: None.

Recused: Member Rucker.

INSTRUCTIONAL TIME REQUIREMENT AUDIT PENALTY (Charter - Minimum Instructional Time)
Item W-13
Subject: Request by Aspire East Palo Alto Charter School under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5(c) the audit penalty for offering less instructional time in the 2007–08 fiscal year at Aspire East Palo Alto Charter School for students in grade seven (shortfall of 24,030 minutes).
Waiver Number: 49-6-2011
(Recommended for DENIAL)
(Meets SBE Streamlined Waiver Policy: SBE Streamlined Waiver Policy)

ACTION: Member Rucker moved to approve the CDE's recommendation to deny the waiver request.

Member Aschwanden seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Kirst, Molina, and Rucker.

No votes: Members Chan, Cohn, Williams, and Straus.

(Motion passed with six votes.)

Member Rucker recused herself from discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)

Item W-14
Subject: Request by King City Union School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the

2010–11 school year at Del Rey Elementary School and Santa Lucia Elementary School. (Requesting 26.4:1 student ratio on average in core classes in kindergarten, 24.7:1 grade one, 25.1:1 grade two, 28.8:1 grades three and four, and 29.9:1 for grade five at Del Rey Elementary School. Requesting 26.3:1 student ratio on average in core classes in kindergarten, 24.1:1 grade one, 25.9:1 grade two, 28.5:1 grades three and four, and 26.1 for grade five at Santa Lucia Elementary School. Also requesting the following student ratios on average in core classes for the 2011–12 school year at Del Rey Elementary School: kindergarten 20.83, grade one 21.0, grade two 20.50, grade three 20.83, grades four and five 23.0; and Santa Lucia Elementary School kindergarten 23.67, grade one 23.17, grade two 18.67, grade three 21.33, grade four 23.0, and grade five 23.60.)
Waiver Number: 52-4-2011
(Recommended for DENIAL)

ACTION: Member Straus moved to approve the waiver request with the condition that the district maintain its class sizes (student-teacher ratios) at an average of 21:1 in grades K-5 through 2014.

Member Cohn seconded the motion.

Yes votes: Members Snell, Ramos, Chan, Cohn, and Straus.

No votes: Members Aschwanden, Kirst, and Molina.

Recused: Member Rucker.

Abstained: Williams.

(The motion failed.)

ACTION: Member Aschwanden moved to approve the CDE's recommendation to deny the waiver request.

Member Kirst seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Kirst, Williams, and Molina.

No votes: Members Chan, Cohn, and Straus.

Recused: Member Rucker.

(The motion passed with six votes.)

Items W-15 and W-16 were grouped together for discussion and action. Member Rucker recused herself from discussion of these items.

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)
Item W-15
Subject: Request by Round Valley Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Round Valley Elementary School (requesting to average class sizes to 20:1 for grades four through eight as opposed to meeting individual grade level class sizes).
Waiver Number: 9-6-2011
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Class Size Reduction Requirements)
Item W-16
Subject: Request by Sacramento City Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Luther Burbank High School (requesting 18.6:1 ratio on average in grade nine).
Waiver Number: 11-4-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's recommendation to approve the waiver requests in Item W-15 and W-16, with the conditions listed in the attachment to the items.

Member Straus seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Cohn, Kirst, Williams, Straus, and Molina.

Recused: Member Rucker.

Not present: Member Chan.

Member Rucker recused herself from discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Money to Follow Identified Students)
Item W-17
Subject: Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from San Fernando Middle School and Lincoln High School to follow identified students who will be transferring to San Fernando Institute of Applied Learning and Leadership in Entertainment and Media Arts to ensure that they will not lose the benefits of the Quality Education Investment Act.
Waiver Number: 71-10-2010
(Recommended for DENIAL)

ACTION: Member Chan moved to approve the waiver request.

Member Straus seconded the motion.

Yes votes: Members Snell, Chan, Cohn, and Straus.

No votes: Members Aschwanden, Ramos, Kirst, Williams, and Molina.

Recused: Member Rucker.

(The motion failed.)

ACTION: Member Aschwanden moved to approve the CDE's recommendation to deny the waiver.

Member Molina seconded the motion.

Yes votes: Members Aschwanden, Ramos, Kirst, Williams, and Molina.

No votes: Members Snell, Chan, Cohn, and Straus.

Recused: Member Rucker.

(The motion failed.)

THIS ITEM WAS WITHDRAWN BY THE DISTRICT.

QUALITY EDUCATION INVESTMENT ACT (Money to Follow Identified Students)
Item W-18

Subject: Request by Heber Elementary School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Heber Elementary School to follow identified students who will be transferring to one new school, Dogwood Elementary School to ensure that they will not lose the benefits of the Quality Education Investment Act.
Waiver Number: 36-6-2011
(Recommended for DENIAL)

Items W-19, W-21, W-22, W-24, W-26, W-27 and W-28 were grouped together for discussion and action.

Member Rucker recused herself from discussion of these items.

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-19
Subject: Request by Planada Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Planada Elementary School (requesting revised goal of 7.8).
Waiver Number: 61-2-2011
(Recommended for APPROVAL WITH CONDITIONS)
(Meets SBE Streamlined Waiver Policy: SBE Streamlined Waiver Policy)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-21
Subject: Request by Chula Vista Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher Experience Index under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Silver Wing Elementary School (requesting revised target of 5.2).
Waiver Number: 22-4-2011
(Recommended for DENIAL)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-22 General
Subject: Request by Cutler-Orosi Joint Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in

the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at El Monte Middle School (requesting revised goal of 5.9).
Waiver Number: 126-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-24
Subject: Request by Dinuba Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Wilson Elementary School and Jefferson Elementary School (requesting revised goal of 7.7 and 7.5, respectively).
Waiver Numbers: 53-3-2011 and 54-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-26
Subject: Request by Mountain Empire Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Clover Flat Elementary School (requesting revised goal of 5.78).
Waiver Number: 37-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-27
Subject: Request by Petaluma City Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at McKinley Elementary School (requesting revised goal of 6.48).
Waiver Number: 4-4-2011
(Recommended for DENIAL)

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-28
Subject: Request by San Diego Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding the Teacher

Experience Index under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Mann Middle School (requesting revised target of 5.5).
Waiver Number: 13-5-2011
(Recommended for DENIAL)

ACTION: Member Molina moved to postpone Items W-19, W-21, W-22, W-24, and W-26 through 28 and to direct CDE to do an analysis of how much the requesting schools' TEIs varied, to help the Board determine what threshold of variance might be appropriate for evaluating waiver requests of this kind.

Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Molina.

No votes: None.

Recused: Member Rucker.

Members Molina and Rucker recused themselves from discussion of this item.

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-20
Subject: Request by Bakersfield City School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at Jefferson Elementary School and Mt. Vernon Elementary School (requesting revised goal of 6.8 and 7.1, respectively).
Waiver Number: 83-2-2011
(Recommended for DENIAL)

ACTION: Member Aschwanden moved to postpone Item 20 and to direct CDE to do an analysis of how much the requesting schools' TEIs varied, to help the Board determine what threshold of variance might be appropriate for evaluating waiver requests of this kind.
Member Chan seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, and Straus.

No votes: None.

Recused: Members Molina and Rucker.

THIS ITEM WAS WITHDRAWN BY DISTRICT.

QUALITY EDUCATION INVESTMENT ACT (Teacher Experience Index)
Item W-23
Subject: Request by Dinuba Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding Teacher Experience Index requirements under the Quality Education Investment Act, that this funded school have an average experience index of classroom teachers in the school equal to or exceeding the average for the school district by the end of the 2010–11 school year at John F. Kennedy Academy, (requesting revised goal of 6.6, respectively).
Waiver Number: 52-3-2011
(Recommended for DENIAL)

Member Chan recused herself from discussion on this item.

STATE TESTING APPORTIONMENT REPORT (CAHSEE and CELDT)
Item W-49
Subject: Request by Los Angeles Unified School District for Vaughn Next Century Learning to waive the State Testing Apportionment Information Report and Certification deadline of December 31 in the *California Code of Regulations*, Title 5, Sections 1225(b)(2)(A) and 11517.5(b)(1)(A) for the California High School Exit Examination and the Califonia English Language Development Test.
Waiver Number: 38-6-2011
(Recommended for APPROVAL)
(Meets Waiver Policy: State Testing Apportionment Informational Report Deadline)

ACTION: Member Cohn moved to take CDE's recommendation to approve the waiver.

Member Molina seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Recused: Member Chan.

*****END OF WAIVERS NOT ON CONSENT*****

*****REGULAR CONSENT ITEMS*****

ACTION: Member Aschwanden moved to approve CDE's recommendations on items 17, 18, 19, 21, and 22.

Member Cohn seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Item 17
Subject: Charter Renewal: Adopt Proposed *California Code of Regulations,* Title 5, Sections 11966.4, 11966.5, 11966.6, 11966.7, 11967, and 11967.5.1.

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

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Item 18
Subject: Assignment of Numbers for Charter School Petitions.

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.

Item 19
Subject: Revisions to the *California School Accounting Manual*.

Recommendation: The CDE requests that the SBE approve the proposed revisions to the *CSAM.*

Item 21
Subject: Inclusion of Alternative Education Program Accountability Results in the Academic Performance Index – Adopt Amendments to the *California Code of Regulations*, Title 5, Sections 1039.2 and 1039.3.

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

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Item 22
Subject: Permits to Employ and Work – Adopt Proposed *California Code of Regulations,* Title 5, Sections 10120.1 through 10121.

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

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

*****END OF REGULAR CONSENT ITEMS*****

Board Member Molina recused herself from the discussion of this item.

Item 20
Subject: Approval of 2011–12 Consolidated Applications.

Recommendation: The CDE recommends that the SBE approve the 2011–12 Consolidated Applications (ConApps) submitted by LEAs in Attachment 1.

ACTION: Member Aschwanden moved to approve CDE's recommendation on Item 20.

Members Cohn seconded the motion.

Yes votes: Members Snell, Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, and Rucker.

No votes: None.

Recused: Member Molina

Item 23
Subject: Elementary and Secondary Education Act: Annual Trustee Reports and Recommendations on Progress Made by Alisal Union Elementary School District and Greenfield Union School District

ACTION: Member Aschwanden moved to approve the Trustee's recommendation to move toward full governing authority on or before June 30 of 2012 and to authorize the State Board President and Executive Director to work with State Board staff, CDE staff, and the state trustee to move towards that exit plan, and to decide whether and when the plan comes back before the Board.

Member Molina seconded the motion.

Yes votes: Members Aschwanden, Ramos, Chan, Cohn, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Not present: Member Snell.

ACTION: Member Aschwanden moved to:

1) Approve the Alisal State Trustee's recommendations to move from Option B to Option A governance model (trustee with authority to stay or rescind governing board actions) effective September 21, 2011;

2) Authorize payment to the members of the Alisal Board of Trustees' for participation in professional development retroactive to May 1, 2011;

3) Authorize that the board receive stipend and health benefits in accordance with Alisal's bylaws and policies upon the effective date of the Option A governance model; and

4) Authorize the State Board President and Executive Director to work with the SBE and CDE staff and the state trustee to conduct an analysis of work that must be completed before relinquishing full governance authority back to the district, including timelines, and bring an exit plan back for consideration at the November 2011 SBE meeting.

Member Straus seconded the motion.

Yes votes: Members Aschwanden, Ramos, Chan, Kirst, Williams, Straus, Molina, and Rucker.

No votes: None.

Not present: Members Snell and Cohn.

Item 24
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.

NO ACTION TAKEN.

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

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Annual Performance Report for Part B of the Individuals with Disabilities Education Act Covering Program Year 2010−11.	☐ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE), as the State educational agency, reports annually to the public and the United States Department of Education (USED) on the performance of California's local educational agencies (LEAs). The Annual Performance Report (APR) data collected to date by the California Department of Education (CDE) for program year 2010–11 is presented herein in executive summary format for the SBE's consideration. The SBE may wish to provide input; however, no action is required at this time. The final APR is due to the USED February 1, 2012.

RECOMMENDATION

The CDE recommends that the SBE review the executive summary of the APR for Part B of the Individuals with Disabilities Education Act (IDEA) covering program year 2010–11.

BRIEF HISTORY OF KEY ISSUES

California is required to have in place a performance plan to guide the state's implementation of Part B of the IDEA and to describe how the state will improve such implementation. This plan is called the Part B State Performance Plan (SPP). California's initial plan was submitted to the Office of Special Education Programs (OSEP) of the USED, on December 2, 2005, as approved by the SBE and the State Superintendent of Public Instruction.

In addition, California must report annually to the public on the performance of its LEAs. This report is called the Part B APR. The APR documents and discusses the LEAs' progress toward meeting the benchmarks identified in the SPP and summarizes the statewide activities associated with each of the SPP's indicator targets. The APR is presented to the SBE annually for approval.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Last year, amendments to the initial SPP were necessary to address changes in federal requirements. In accordance with these requirements, the CDE prepared the SPP and included updates to reflect benchmarks for dropout rates consistent with the state's Adequate Yearly Progress Information Guide. The amended SPP was approved by the SBE at its January 2011 meeting.

At its January 2011 meeting, the SBE also approved the 2009–10 APR. In addition to reporting on progress, the 2009–10 APR addressed new federal requirements such as descriptions for monitoring, general supervision processes, and new descriptions and calculations for disproportionality.

On February 1, 2011, the SPP and APR, as described above and approved by the SBE were submitted to the OSEP.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact.

ATTACHMENT(S)

Attachment 1: Executive Summary of the Annual Performance Report for Part B of the Individuals with Disabilities Education Act Covering Program Year 2010–11 (52 pages).

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIAL EDUCATION DIVISION

Individuals with Disabilities Education Act of 2004
State Annual Performance Report
Federal Fiscal Year 2010
(Program Year 2010–11)

EXECUTIVE SUMMARY

February 2012

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Special Education in California

The California Department of Education (CDE) provides state leadership and policy direction for school district special education programs and services for students who have disabilities, newborn to twenty-two years of age. Special Education is defined as specially designed instruction and services, at no cost to parents, to meet the unique needs of children with disabilities. Special education services are available in a variety of settings, including day-care settings, preschool, regular classrooms, classrooms that emphasize specially designed instruction, the community, and the work environment.

This leadership includes providing families with information on the education of children with disabilities. The CDE works cooperatively with other state agencies to provide everything from family-centered services for infants and preschool children with disabilities to planned steps for transitions from high school to employment and quality adult life. The CDE responds to consumer complaints and administers the federal Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind Act (NCLB) for students with disabilities in California.

Accountability and Data Collection

In accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA 2004), California is required to report annually to the secretary of the U.S. Department of Education (USED) on the performance and progress under the State Performance Plan (SPR) in its Annual Performance Report (APR). The APR requires the CDE to report on 20 indicators (Table 1) that examine a comprehensive array of compliance and performance requirements relating to the provision of special education and related services. The California Special Education Management Information System (CASEMIS) is the data reporting and retrieval system used at the CDE. The CASEMIS provides the local educational agencies (LEAs) with a statewide standard for maintaining a common core of special education data at the local level that is used for accountability reporting and to meet statutory and programmatic needs in special education.

The CDE is required to publish the APR for public review. The current APR reflects data collected during Federal Fiscal Year (FFY) 2010, which is equivalent to California's school year 2010−11. Please note that there are several indicators that are reported in lag years using data from school year 2009−10. There are 11 performance indicators and 9 compliance indicators. All compliance indicators are set by the USED at either 0 percent or 100 percent. Performance indicator targets were established based on the recommendations of the broad-based stakeholder group, Improving Special Education Services (ISES), and the approval of the State Board of Education (SBE) (Table 5).

Table 1: California State Indicators

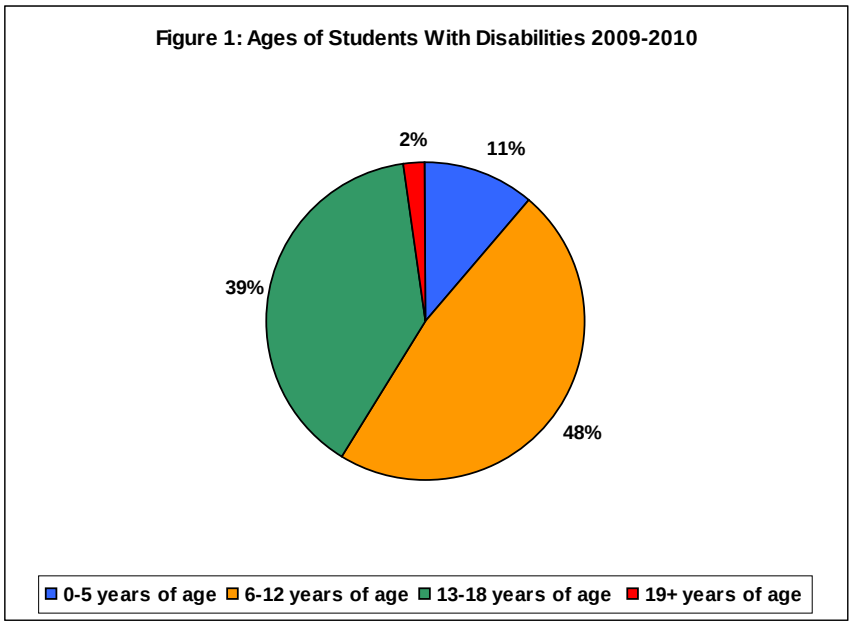
Type		Indicators
Performance	1	Graduation Rates
Performance	2	Dropout Rates
Performance	3 A	Statewide Assessment
Performance	3B	Statewide Assessment-participation Rates
Performance	3C	Statewide Assessment-proficiency Rates
Performance	4A	Rates of Suspension and Expulsion
Performance	4B.	Rates of Suspension and Expulsion by Race or Ethnicity
Performance	5A	Least Restrictive Environment (Removed >21% of day)
Performance	5B	Least Restrictive Environment (Removed >60% of day)
Performance	5C	Least Restrictive Environment (Served in separate school or other placement)
Performance	6	Preschool Least Restrictive Environment (Not reported in FFY 2010)
Performance	7A	Preschool Assessment: Social-emotional skills
Performance	7B	Preschool Assessment: Acquisition/Use of knowledge
Performance	7C	Preschool Assessment: Use of Appropriate Behaviors
Performance	8	Parent Involvement
Compliance	9	Disproportionality Overall
Compliance	10	Disproportionality by Disability
Compliance	11	Eligibility Evaluation
Compliance	12	Part C to Part B Transition
Compliance	13	Effective Transitions
Performance	14	Post Secondary
Compliance	15	General Supervision
Compliance	16	Complaints
Compliance	17	Due Process
Performance	18	Hearing Requests
Performance	19	Mediation
Compliance	20	State-reported Data

CASEMIS Dec.2010

Overview of Population and Services

During fiscal year (FY) 2010−11, 680,164 students were enrolled in special education. Compared to the total student enrollment in California, special education students make up about 10 percent of total students. The average age of a special education student in California is approximately eleven years. The median grade level is sixth grade.

As shown in Figure 1, the majority of students with disabilities in California are between six and twelve years of age. The majority of special education students (68 percent) are male. 29 percent of special education students are English-language learners.



CASEMIS Dec.2010

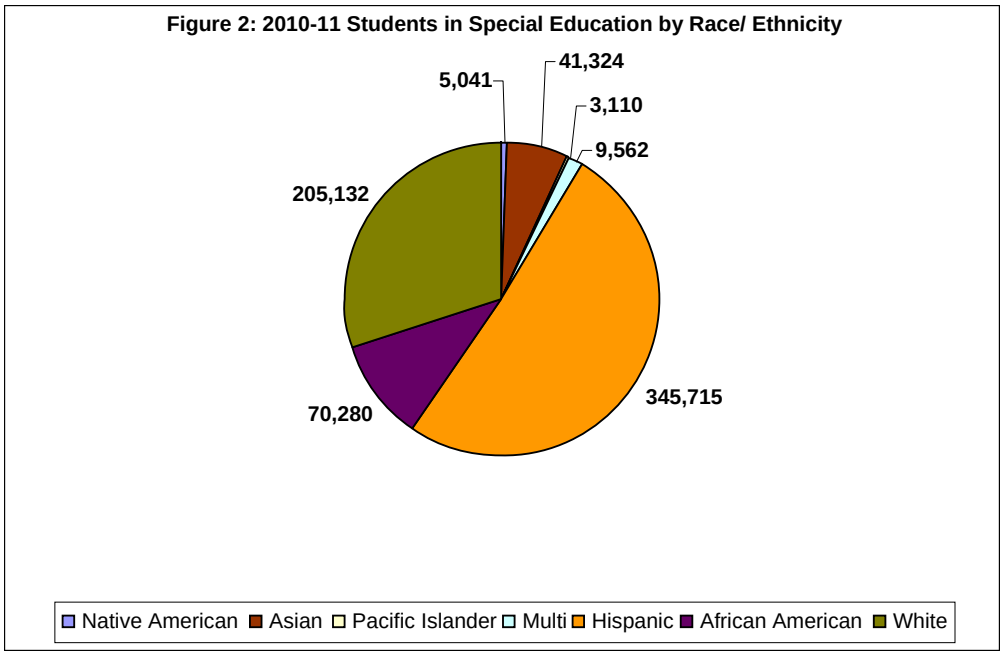
California students diagnosed with at least one disability are eligible for services to meet those needs. There are 13 disability categories as identified in Table 2. The majority (42 percent) of students are identified as having a “Specific Learning Disability” as their primary disability category. The second most common primary disability designation for students (24.7 percent) is a “Speech/Language Impairment”.

Table 2: Enrollment of Special Education Students by Disability Type

Intellectual Disability	42,897	Orthopedic Impairment	15,394
Hard of Hearing	9,301	Other Health Impairment	53,936
Deaf	4,154	Specific Learning Disability	287,773
Speech and Language	168,046	Deaf-Blindness	162
Visual Impairment	4,456	Multiple Disability	5,201
Emotional Disturbance	27,314	Autism	59,690
Traumatic Brain Injury	1,831		

CASEMIS Dec.2010

Of all special education students in California, Hispanic youth represent the greatest number of students in need of services. (See Figure 2) However, when compared to total enrollment rates, African American students are the most highly represented single ethnicity in special education. (See Figure 3)



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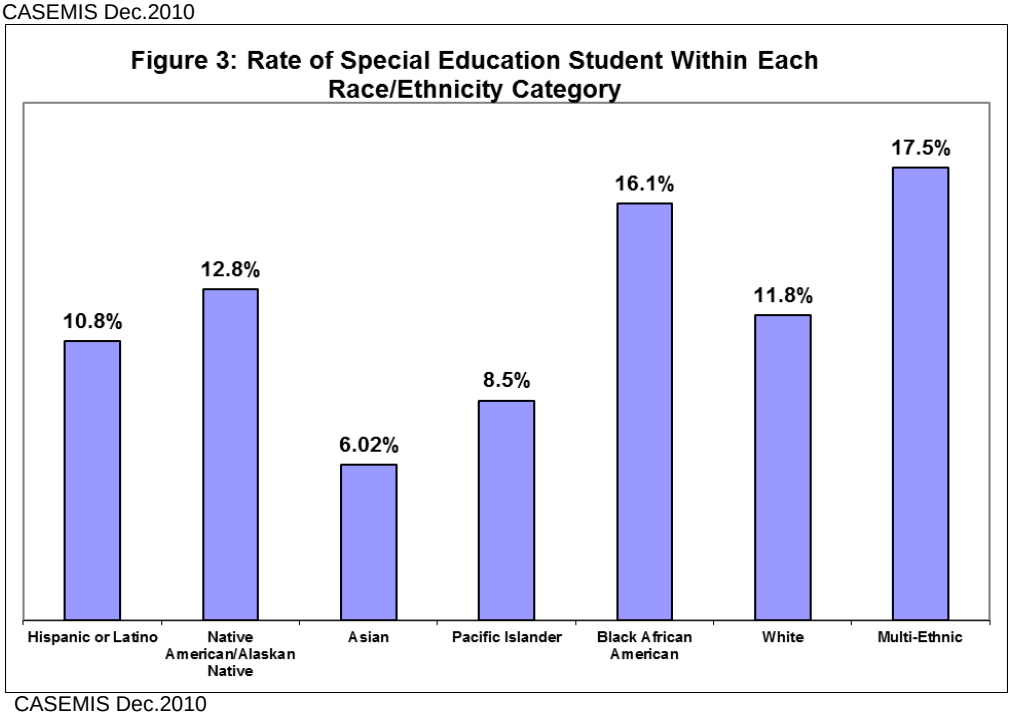

CASEMIS Dec.2010

The CDE also tracks the type of school or program in which special education students receive the majority of their instructional services. These include public schools, private schools, independent study, charter schools, community schools, correctional programs, higher education, and transition programs. Table 3 shows that the majority (88 percent) of special education students are enrolled in a public day school.

Table 3: **Enrollment of Special Education by Type of School**

No School (0−5 years)	3,872	Adult Education Program	1,602
Public Day School	597,559	Charter School	16,032
Public Residential School	761	Charter School District	4,124
SpEd Center or Facility	11,180	Head Start	1,861
Other Public School	5,606	Child Development/Care	2,509
Continuation School	5,312	State Preschool Program	875
Alternative Work Education Center/Facility	349	Non Public Residential School	1,658
Independent Study	1,372	Extended Day Care	250
Juvenile Court School	2,347	Non Public Day School	12,299
Community School	3,619	Private Preschool	830
Correctional Institution	351	Private Day School	1,681
Home Instruction	2,417	Private Residential School	41
Hospital Facility	116	Non Public Agency	253
Community College	263	Parochial School	1,025

CASEMIS Dec.2010

Special education students in California receive a variety of services to address their unique needs. During 2010−11, there were 1,606,945 services provided to California special education students. Table 4 describes the type of services provided to students. The most common service provided was Specialized Academic Instruction, followed by Language and Speech Services.

Table 4: **Services Provided Special Education Students**

Specialized Services for Ages 0-2 years	17,815	Specialized Services/Low Incidence Disabilities	7,426
Specialized Academic Instruction	652,440	Services for Deaf Students	20,974
Intensive Individual Services	12,219	Services for Visually Impaired Students	11,583
Individual/Small Group Instruction	14,786	Specialized Orthopedic Services	3,970
Language/Speech	377,784	Recreation Services	566
Adapted Physical Education	49,085	Reader and Note Taking Services	734
Health and Nursing	16,362	College Preparation	51,499
Assistive Technology	8,829	Vocational/Career	103,963
Occupational Therapy	63,675	Agency Linkages	9,634
Physical Therapy	11,246	Travel Training	1,160
Mental Health Services	132,174	Other Transition Services	21,590
Day Treatment	1,477	Other Special Education Services	16,053
Residential Treatment	1,116		

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2010−11 APR Indicators

During FFY 2010, California met XX (or XX percent) of the 19 target indicators (Indicator 6 was not reported for FFY 2010). Table 5 identifies each indicator, its target, the FFY 2010 state results, and if the target was met. The pages following Table 5 provide one-page overviews of each individual indicator, including a description of the indicator, the target, the data measurement, the results, whether the target was met, and a summary of improvement activities.

Table 5 FFY 2010 Indicators, Targets, and Results

Indicators	Target	*Results	Met Target
1-Graduation Rate	Greater than 90%	74%	Yes
2-Dropout Rate	No More Than 22.1%	15.4%	Yes
3-Statewide Assessment	Multiple Targets	--	No
4- Suspension and Expulsion Rate by Ethnicity	No More Than 10%	2.5%	Yes
4b-Suspension and Expulsion Rate by Disability	No More than 0%	9.86%	No
5-Least Restrictive Environment			
5a. Percent Removed from Regular Class Less Than 21% of the Day	76% or More	54.1%	No
5b. Percent Removed from Regular Class More Than 60% of the Day	No More than 9%	22.4%	No
5c. Percent served in separate schools	No More than 3.8%	3.7%	Yes
6-Preschool Least Restrictive Environment	Not Required	--	--
7-Preschool Assessment	Multiple Targets		No
8-Percent of Parent Reporting the Schools Facilitated Parental Involvement	82% or More	81.1%	No
9-Overall Disproportional Racial or Ethnic Groups in Special Education	No More Than 0%	2.3%	No
10-Disproportional Racial or Ethnic Groups in Disability Categories	No More than 0%	3.3%	No
11-Eligibility Evaluation Completed within 60 Days of Parental Consent	No Less than 100%	95.9%	No
12-Part C to Part B Transition by Third Birthday	No Less than 100%	95.3%	No
13-Secondary Transition Goals and Services	No Less than 100%	27.2%	No
14-Post-School Employment or Enrollment in Post-Secondary Education	No Less than 87%	74.4%	No
15-General Supervision System Corrects Noncompliance Within in One Year	No Less than 100%	Pending	Pending*
16-General Supervision: Written Complaints Resolved in 60 Days	No Less than 100%	100%	Yes
17-General Supervision: Due Process Hearings	No Less than 100%	100%	Yes
18-General Supervision	No Less than 55%	Pending	Pending
19-General Supervision: Number of Mediation Agreements	No Less than 80%	67.2%	No
20-General Supervision: Timely and Accurate Reports		Pending	Pending
20a. Percent of State Reports Submitted on Time and Accurate	No Less than 100%	Pending	Pending
20b. Percent of SELPAs Submit Data on Time and Accurate	No Less than 100%	Pending	Pending

*** Pending results are scheduled to be entered on or before November 18, 2011.**

INDICATOR 1: GRADUATION

Description

This is a performance indicator. It measures the percent of youth with Individual Education Programs (IEPs) graduating from high school with a regular diploma (20 U.S.C 1416 [a][3)][A]). The calculation methods for this indicator were revised in 2008−09 and again in 2009−10 to align with reporting criteria under Title I of the Elementary and Secondary Education Act (ESEA). A new reporting methodology was implemented for the FFY APR. No baselines have been established. All California students are required to pass the California High School Exit Exam (CAHSEE) to earn a public high school diploma. State law provides an exemption from this testing requirement for students who otherwise meet the district requirement for graduation.

Target for 2010−11

- Have a 2010 graduation rate of at least 90 percent **or**
- Meet the 2010 fixed growth rate of 64.17 percent **or**
- Meet the 2010 variable growth rate of 64.17 percent

Measurement

The data are reported in lag years using the California Longitudinal Pupil Achievement Data System (CALPADS) data from the FFY 2009 (2009−10). The calculation is based on data from the California's ESEA reporting.

Results for 2010−11

The graduation rate for the FFY 2010: 74 percent of students with disabilities graduated with a high school diploma.

Target Met: Yes

Summary of Improvement Activities

- Provide technical assistance regarding graduation standards, student participation in graduation activities, promotion/retention guidelines, and preparation for the CAHSEE.
- Disseminate and promote the English Learners with Disabilities Handbook which provides guidance on ways to support twelfth graders in meeting goals for graduation.
- Develop and disseminate training modules on standards-based IEPs that promote and sustain activities that foster special education and general education working together to meet the needs of all learners. Modules will target delivery of services, curriculum and instruction, and differentiated instruction.

INDICATOR 2: DROPOUTS

Description

This is a performance indicator. It measures the percent of youth with IEPs dropping out of high school (20 U.S.C 1416 [a][3][A]). The calculation methods for this indicator were revised in 2009−10 to create a more rigorous target and approved by the Office of Special Education Programs (OSEP) in April 2010. Dropout rates are calculated from data reported for grades nine through twelve. The CDE uses the annual (one-year) dropout rate and the four-year derived dropout rate. The four-year derived dropout rate is an estimate of the percent of students who would dropout in a four-year period based on data collected for a single year. California does not currently have benchmarks for dropout rates for the ESEA. Annual benchmarks are not required by the ESEA.

Target for 2010−11

Less than 22.1 percent of students with disabilities will drop out of high school.

Measurement

The data are reported in lag years using the CALPADS data from the FFY 2009 (2009−10). The calculation is based on data from the ESEA reporting.

Results for 2010−11

For the FFY 2010, Indicator 2 (Dropout Rates) reports in lag years using data from 2008−09. The four-year derived dropout rate formula was 15.4 percent.

Target Met: Yes

Summary of Improvement Activities

- Continue the Building Effective Schools Together (BEST) program which provides training and technical assistance on positive behavioral supports.

- Disseminate and provide training based on *Transition to Adult Living: A Guide for Secondary Education*, a comprehensive handbook written for students' parents and teachers, to support the transition of students with disabilities to adulthood and/or independent living.

- The CDE will continue to contract with the California Juvenile Court Schools to facilitate electronic transmission of records across public agencies, implement Response to Instruction and Intervention (RTI²), and improve academic achievement.

INDICATOR 3: STATEWIDE ASSESSMENTS

Description

This is a performance indicator. It measures the percent of districts with a disability subgroup that meet the State's minimum "n" size (less than 20 students) and meet: (a) the State's Adequate Yearly Progress (AYP), English-language Arts (ELA), and mathematics targets for the disability subgroup; (b) the participation rate for children with IEPs; and (c) the proficiency rate for children with IEPs against grade-level, modified, and alternate academic achievement standards (20 U.S.C. 1416 [a][3][A]).

Target for 2010−11

3A. The annual benchmarks and six-year target for the percent of districts meeting the State's AYP objectives for progress for the disability subgroup (58 percent).

3B. The annual benchmark and target for participation on statewide assessments in ELA and math, 95 percent (rounded to nearest whole number), is established under the ESEA.

3C. Consistent with the ESEA accountability framework, the 2010−11 annual measurable outcomes (benchmarks) for the percent proficient on statewide assessments are broken down by school subgroup:

School Subgroup	ELA Percent	Math Percent
Elementary Schools, Middle Schools, Elementary School Districts	67.6	68.5
High Schools, High School Districts	66.7	66.1
Unified School Districts, High School Districts, County Office of Education	67.0	67.3

Measurement

The AYP percent equals the number of districts with a disability subgroup that meets the State's minimum "n" size that meet the State's AYP targets for the disability subgroup divided by the total number of districts that have a disability subgroup that meets the State's minimum "n" size.

The participation rate percent equals the number of children with IEPs participating in the assessment (California Standards Test, California Alternate Performance Assessment, California Modified Assessment, and CAHSEE) divided by the total number of children with IEPs enrolled on the first day of testing, calculated separately for reading and math.

The proficiency rate percent equals the number of children with IEPs enrolled for a full academic year scoring at or above proficient divided by the total number of children with IEPs enrolled for a full academic year, calculated separately for reading and math.

Results for 2010−11:

A. In FFY 2010 for Target A the results are as follows:

Percent of Districts Meeting AYP for Disability Subgroup (3A)

Targets for FFY 2010 (2010–11)	Actual Data for FFY 2010 (2010–11)	Target Met
58	14.7	No

B. In FFY 2010 for Target B the results are as follows:

Percent of Participation for Students with IEPs (3B)

	Targets for FFY 2010 (2010–11)	Actual Data for FFY 2010 (2010–11)	Target Met
ELA	95	97.4	Yes
Math	95	94.9	No

C. In FFY 2010 for Target C the results are as follows:

Proficiency Targets and Actual Data in ELA and Math by Type of LEA (3C)

Type of LEAs	ELA Target Percent Proficient	ELA Actual Percent Proficient	Target Met	Math Target Percent Proficient	Math Actual Percent Proficient	Target Met
Elementary School Districts	67.6	32.3	No	68.5	28.7	No
High school Districts (grades 9-12 only)	66.7	4.0	No	66.1	4.1	No
Unified School Districts, High School Districts, County Offices of Education (grades 2–8 and 9–12)	67.0	22.9	No	67.3	17.3	No

Summary of Improvement Activities

- Provide technical assistance to schools focused on the implementation of programs to reform high poverty schools. Provide focused monitoring technical assistance at facilitated school sites to address participation and performance on statewide assessments.

- Develop and maintain the IDEA 2004 information Web page with links to important references and resources on the reauthorization of the IDEA, including statewide assessments.

- Collaborate with the CDE Program Improvement and Interventions Office to infuse special education indicators into the Academic Performance Survey and District Assistance Survey.

INDICATOR 4A: SUSPENSION AND EXPULSION BY ETHNICITY

Description

This is a performance indicator. It measures the percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs (20 U.S.C. 1416[a][3][A]); 1412[a][22]). A district is considered to have a significant discrepancy if the districtwide rate for suspension and expulsion exceeds the statewide rate for suspension and expulsion. Districts identified to have a significant discrepancy are required to review their policies, procedures, and practices related to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. The data reported here are from 2009−10.

Target for 2010−11

No more than 10.0 percent of districts will have rates of suspensions and expulsions of children with disabilities for greater than 10 days in a school year.

Measurement

The data are reported in lag years using the CALPADS data from the FFY 2010 (2009−10). The percent is calculated by the number of districts that have a significant discrepancy in the rates of suspensions and expulsions of children with IEPs for greater than 10 days in a school year divided by the number of districts in the State times 100.

Results for 2010−11

In FFY 2010, there were 19 districts (2.5 percent) whose rate of suspension and expulsion was greater than the statewide rate.

Target Met: Yes

Summary of Improvement Activities

- In collaboration with other divisions of the CDE, provide technical assistance to LEAs and schools on reinventing high schools and to address suspension and expulsion.

- Provide technical assistance to schools focused on the implementation of reform programs that have been successful in high poverty schools.

- Work with special education local plan areas (SELPAs), LEAs and the County Offices of Education (COE) to clarify responsibilities and improve behavior emergency and incident reporting.

- Promote the Internet Resource Instructional System (IRIS) modules in behavior, diversity, and other content. This is a special project that includes training and technical assistance work.

- Promote the Culturally Responsive Teaching in California online training modules for the school site general and special educators dealing with utilizing positive behavior supports.

INDICATOR 4B: SUSPENSION AND EXPULSION BY DISABILITY

Description:

This is a compliance indicator. It measures the percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures, or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards (20 U.S.C. 1416[a][3][A]); 1412[a][22]).

Target for 2010-11

Zero percent of districts will have a significant discrepancy in the rates of suspensions and expulsions for greater than 10 days in a school year of children with disabilities by race**.**

Measurement

The data are reported in lag years using the CALPADS data from the FFY 2009 (2009−10). This percent is calculated by the number of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rates of suspensions and expulsions of greater than 10 days in a school year of children with IEPs; and (b) policies, procedures, or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards divided by the number of districts in the State times 100.

Results for 2010−11

In FFY 2010, there were 75 districts (9.86 percent) with significant discrepancies, by race or ethnicity, in the rates of suspension or expulsion of greater than 10 days for students with IEPs.

Target Met: No

Summary of Improvement Activities

- Provide technical assistance to schools focused on the implementation of reform programs that have been successful in high poverty schools.

- Work with SELPAs, LEAs, and COE to clarify their responsibilities and improve behavior emergency and incident reporting.

- Work with SELPAs, LEAs, and the COEs to update and improve monitoring items and instruments for reviewing policies, practices, and procedures related to this indicator.

- Provide Building Effective Schools Together (BEST) training and technical assistance on positive behavioral supports. Promote and distribute the IRIS modules in behavior, diversity, and other content. This is a special project that includes training and technical assistance work.

INDICATOR 5: LEAST RESTRICTIVE ENVIRONMENT

Description

This is a performance indicator. It measures the percent of children with IEP's, aged six through twenty-one, served inside the regular class 80 percent or more of the day; inside the regular class 40 percent of day; and no more than 3.9 percent are served in separate schools, residential facilities, or homebound/hospital placement.

Target for 2010−11

5A. Seventy six percent or more of students will be removed from regular class less than 21 percent of the day;

5B. No more than 9 percent of students will be removed from regular class more than 60 percent of the day; **and**

5C. No more than 3.8 percent of students are served in public or private separate schools, residential placements, or homebound or hospital placements.

Measurement

A. The number of children with IEPs served inside the regular class 80 percent or more of the day divided by the total number of students aged six through twenty-one with IEPs.

B. The number of children with IEPs served inside the regular class less than 40 percent of the day divided by the total number of students aged six through twenty-one with IEPs.

C. The number of children with IEPs served in separate schools, residential facilities, or homebound/hospital placements divided by the total number of students aged six through twenty-one with IEPs.

Results for 2010−11

California did not meet the targets for 5A (only 52.4 percent of students were removed from regular class less than 21 percent of the day) and for 5B (22.4 percent of students were removal greater than 60 percent of the day). However, the target was met for 5C, (3.7 percent of students were served in separate schools and facilities).

Target Met: 5A & 5B No**, 5C** Yes

Summary of Improvement Activities

- Continue implementing the Facilitated Focused Monitoring Project including the "scaling up" of focused monitoring activities that contain targeted technical assistance to LEAs related to Least Restrictive Environment (LRE) and improved academic outcomes.

- Conduct activities related to parent involvement, LRE, RtI^2, and secondary transition. The CDE promotes parental involvement by inviting their membership and participation in ISES and in the CDE trainings. The CDE supported trainings are posted on the Internet to increase parental access.

- In collaboration with the California Comprehensive Center, the CDE's Special Education Division (SED) will develop and disseminate training modules on standards-based IEPs to promote and sustain activities that foster special education and general education collaboration.

INDICATOR 7A: PRESCHOOL ASSESSMENT

Description

This is a performance indicator. It measures the percent of preschool children with IEPs who demonstrate improvement in Outcome A: Positive social-emotional skills (including social relationships).

Target for 2010−11

1. Of those children who entered the program below age expectations in Outcome A, 72.7 percent substantially increased their rate of growth by the time they turned six years of age or exited the program; and

2. Of children who were functioning within age expectations in Outcome A, 82.1 percent were functioning within age expectations by the time they turned six years of age or exited the program.

Measurement

Outcome A: Positive social-emotional skills (including social relationships):

A. Number of preschool children who did not improve functioning divided by the number of preschool children with IEPs assessed X 100.

B. Number of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

C. Number of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it divided by the number of preschool children with IEPs assessed X 100.

D. Number of preschool children who improved functioning to reach a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

E. Number of preschool children who maintained functioning at a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

Results for 2010−11: For FFY 2010 for Outcome A, 67.07 percent of students substantially increased their rate of growth by the time they turned six years of age or

exited the program, and 77.75 percent of students were functioning within age expectations by the time they turned six years of age or exited the program.

Target Met: No

Summary of Improvement Activities

- Provide on-going statewide technical assistance and training on Early Child Special Education (ECSE) and assist the CDE in monitoring and activities assessment.

- Continue the Train-the-Trainer training for SELPA teams to build local capacity for support, technical assistance, and mentoring for teachers.

- Develop Web-based modules for training and instruction related to the Desired Results Development Profile (DRDP) instruments and data reporting system to build local capacity for support, technical assistance, and mentoring.

INDICATOR 7B: PRESCHOOL ASSESSMENT

Description

This performance indicator measures the percent of preschool children with IEPs who demonstrate improvement in Outcome B: Acquisition and use of knowledge and skills (including early language/communication and early literacy).

Target for 2010−11

1. Of those children who entered the program below age expectations in Outcome B, 70.0 percent substantially increased their rate of growth by the time they turned six years of age or exited the program; and

2. Of children who were functioning within age expectations in Outcome B, 82.5 percent were functioning within age expectations by the time they turned six years of age or exited the program.

Measurement

Outcome B: Acquisition and use of knowledge and skills (including early language/communication and early literacy):

A. Number of preschool children who did not improve functioning divided by the number of preschool children with IEPs assessed X 100.

B. Number of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

C. Number of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it divided by the of preschool children with IEPs assessed X 100.

D. Number of preschool children who improved functioning to reach a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

E. Number of preschool children who maintained functioning at a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

Results for 2010−11: In FFY 2010 for Outcome B, 66.26 percent of students substantially increased their rate of growth by the time they turned six years of age or exited the program; and 76.17 percent of students were functioning within age expectations by the time they turned six years of age or exited the program.

Target Met: No

Summary of Improvement Activities

- Provide on-going statewide technical assistance and training on ECSE and assist the CDE in monitoring and activities assessment.
- Continue the Train-the-Trainer training for SELPA teams to build local capacity for support, technical assistance, and mentoring for teachers.
- Develop Web-based modules for training and instruction related to the DRDP instruments and data reporting system to build local capacity for support, technical assistance, and mentoring.

INDICATOR 7C: PRESCHOOL ASSESSMENT

Description

This performance indicator measures the percent of preschool children with IEPs who demonstrate improvement in Outcome C: Use of appropriate behaviors to meet their needs (20 U.S.C. 1416[a][3][A]).

Target for 2010−11

1. Of those children who entered the program below age expectations in Outcome C, 75.0 percent substantially increased their rate of growth by the time they turned six years of age or exited the program; and

2. Of children who were functioning within age expectations in Outcome C, 79.0 percent were functioning within age expectations by the time they turned six years of age or exited the program.

Measurement

Outcome C: Use of appropriate behaviors to meet their needs:

A. Number of preschool children who did not improve functioning divided by the number of preschool children with IEPs assessed X 100.

B. Number of preschool children who improved functioning but not sufficient to move nearer to functioning comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

C. Number of preschool children who improved functioning to a level nearer to same-aged peers but did not reach it divided by the number of preschool children with IEPs assessed X 100.

D. Number of preschool children who improved functioning to reach a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

E. Number of preschool children who maintained functioning at a level comparable to same-aged peers divided by the number of preschool children with IEPs assessed X 100.

Results for 2010-11: In FFY 2010 for Outcome C, 69.17 percent of students substantially increased their rate of growth by the time they turned six years of age or

exited the program; and 78.20 percent of students were functioning within age expectations by the time they turned six years of age or exited the program.

Target Met: No

Summary of Improvement Activities

- Provide on-going statewide technical assistance and training on ECSE and assist the CDE in monitoring and activities assessment.

- Continue the Train-the-Trainer training for SELPA teams to build local capacity for support, technical assistance, and mentoring for teachers.

- Develop Web-based modules for training and instruction related to the DRDP instruments and data reporting system to build local capacity for support, technical assistance, and mentoring.

INDICATOR 8: PARENT INVOLVEMENT

Description

This is a performance indicator. It measures the percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities (20 *U.S.C.* 1416[a][3][A]). This information is reported from one question in a survey distributed, collected, and reported by the SELPAs. The measure is the percentage of parents responding “yes” to the question: “Did the school district facilitate parent involvement as a means of improving services and results for your child?”

Target for 2010−11

Eighty two percent of parents will report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

Measurement

The number of respondent parents who report schools facilitated parent involvement as a means of improving services and results for children with disabilities divided by the total number of respondent parents of children with disabilities.

Results for 2010−11: The results for Indicator 8 in FFY 2010 were 81.1 percent of parents with a child receiving special education services report that schools facilitated parental involvement.

Target Met: No

Summary of Improvement Activities

- Explore Web-based applications for all components of the monitoring system including parent involvement.
- Data collection will be conducted, independent of the monitoring processes, by parent centers and the CDE staff.
- Develop a Web-based survey process and a statewide data collection through the CASEMIS to capture a universal sample of families to address the Parent Involvement Indicator.
- Conduct trainings and outreach and provide technical assistance related to parent involvement.

- The SED partners with Parent Training and Information centers, Family Resource Centers, and Family Empowerment Centers to provide statewide training and technical assistance to parents. The SED will maintain a parent “hot line” to provide parents with information and assistance.

INDICATOR 9: DISPROPORTIONALITY OVERALL

Description

This is a compliance indicator. It measures the percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification (20 U.S.C. 1416[a][3][C]). Currently, California combines the disparity measure with the e-formula in a race-neutral approach to identifying which districts are disproportionate. The first test is to identify those districts that have a disparity that is higher than the annual benchmark. The second test, based on the e-formula, looks at the over- and under-representation of each ethnic group compared to the distribution of those ethnic groups in the general education population.

Target for 2010−11

Zero percent of districts will have disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

Measurement

The number of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification divided by the number of districts in the State.

Results for 2010−11: Out of 1,055 districts in California, 251 were excluded from the calculations due to “n” size (>20 students), leaving a total of 804 districts. There were 34 districts identified as having disproportionate representation. Of the 34 districts found potentially disproportionate, 19 (2.4 percent) had noncompliant policies, procedures, or practices as a result of inappropriate identification.

Calculation: 19 / 804 x 100 = 2.3 percent

Target Met: No

Summary of Improvement Activities

- Work with the Western Regional Resource Center (WRRC) and other federal contractors to identify and disseminate research-based practices related to preventing disproportionate representation and to address the relationship between eligibility and disproportionality of racial and ethnic groups.

- Refine policies, procedures, and practices instruments to assist the LEAs in reviewing their policies, procedures, and practices in relation to disproportionality of racial and ethnic groups.

- Incorporate preliminary self-review and improvement planning modules, based on the National Center for Culturally Responsive Educational Systems (NCCRESt), into monitoring software.

- Annually identify districts that are significantly disproportionate, using existing instruments and procedures.

INDICATOR 10: DISPROPORTIONALITY BY DISBILITY

Description

This is a compliance indicator. It measures the percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification (20 U.S.C. 1416[a][3][C]). The calculation for Indicator 10 (Ethnicity by Disability) has been changed at the direction of the OSEP during their September 2010 verification visit. The OSEP found that the use of the overall disparity index inappropriately eliminated districts from the calculations directed specifically at disability. In response to this concern, the CDE proposed the use of a disability specific disparity index. Thus, both calculations (the Disability Disparity Index and the e-formula applied to specific disabilities) test disproportionality by disability.

Target for 2010−11

Zero percent of districts will have disproportionate representation of racial and ethnic groups in specific disability categories that are the result of inappropriate identification.

Measurement

The number of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification divided by the number of districts in the State.

Results for 2010−11: Out of 1,055 districts in California, 251 were excluded from the calculations due to “n” size (>20 students), leaving a total of 804 districts. Of the 804 districts, 101 were identified as having disproportionate representation. Of the 101 districts found potentially disproportionate, 27 (3.4 percent) had noncompliant policies, procedures, or practices as a result of inappropriate identification.

Calculation: 27 / 804 x 100 = 3.3 percent

Target Met: No

Summary of Improvement Activities

- Refine policies, procedures, and practices guidance to assist the LEAs in reviewing their policies, procedures, and practices in relation to disproportionality by disability groups.

- Use refined procedures to identify districts with significant disproportionality and establish plans for supervision and technical assistance.

- Incorporate preliminary self-review and improvement planning modules, based on the NCCRESt, into monitoring software.
- Annually identify districts that are significantly disproportionate, using existing instruments and procedures related to disability.

INDICATOR 11: ELIGIBILITY EVALUATION

Description

This is a compliance indicator. It measures the percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe (20 U.S.C. 1416[a][3][B]). These data were calculated using CASEMIS data fields related to parental consent date and initial evaluation date. Determination of eligibility was made using the Plan Type field which includes the type of plan a student has (IEP, Individualized Family Service Plan, Individual Service Plan) if the student is eligible or no plan if the student is determined ineligible. If the parent of a child repeatedly failed or refused to bring the child for the evaluation, or a child enrolled in a school of another public agency after the timeframe for initial evaluations had begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability, then the child was eliminated from both the numerator and the denominator.

Target for 2010−11

Eligibility determinations will be completed within 60 days for 100 percent of children for whom parental consent to evaluate was received.

Measurement

A. The number of children for whom parental consent to evaluate was received.

B. The number of children whose evaluations were completed within 60 days (or a State-established time line).

Results for 2010−11: For FFY 2010 95.9 percent of eligibility determinations were completed within 60 days for children whom parental consent to evaluate was received.

Target Met: No

Summary of Improvement Activities

- Explore Web-based applications for all components of the monitoring system including 60-day evaluation time line.
- Analyze data from compliance complaints and all monitoring activities to determine areas of need for technical assistance, in addition to correction of noncompliance.

- Prepare and install initial evaluation compliance reports into the CASEMIS software to enable districts and SELPAs to self-monitor.

- Prepare and send noncompliance-finding letters based on the CASEMIS data to LEAs to reinforce the importance of correcting all noncompliant findings resulting from verification and self-review monitoring.

INDICATOR 12: PART C TO PART B TRANSITION

Description

This is a compliance indicator. It measures the percent of children referred by Part C prior to age three, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays (20 U.S.C. 1416[a][3][B]). These data were collected through the CASEMIS and data from the Department of Developmental Services (DDS).

Target for 2010−11

One hundred percent of children referred by Part C of IDEA prior to age three and who are found eligible for Part B of IDEA will have an IEP developed and implemented by their third birthday.

Measurement

A. Number of children who have been served in Part C and referred to Part B (LEA notified pursuant to IDEA section 637(a)(9)(A) for Part B eligibility determination).

B. Number of those referred determined to be NOT eligible and whose eligibilities were determined prior to their third birthdays.

C. Number of those found eligible who have an IEP developed and implemented by their third birthdays.

D. Number of children for who parent refusal to provide consent caused delays in evaluation or initial services.

Results for 2010-11: For FFY 95.3 percent of children referred by Part C of IDEA prior to age three and who were found eligible for Part B of IDEA had an IEP developed and implemented by their third birthday.

Target Met: No

Summary of Improvement Activities

- Meet annually with SELPAs, LEAs, and Regional Centers to review data and plan for corrective action plans and technical assistance activities related to transition from Part C to Part B, based on APR data.

- Convene ISES stakeholder group to obtain input on aspects of Part C to Part B transition (e.g., moving from family focus to child focus).

- Revise the CASEMIS to include separate referral and evaluation dates for Part B and Part C in accordance to the IDEA.

- Participate in the OSEP National Early Childhood Conference to stay abreast of national trends, research on transition from Part C to Part B, and new OSEP requirements.

- Participate in a joint transition project with the DDS (Part C lead agency), with the assistance of the WRRC.

INDICATOR 13: SECONDARY TRANSITION GOALS AND SERVICES

Description

This is a compliance indicator. It measures the percent of youth with IEPs aged sixteen and above with an IEP that includes appropriate measurable post-secondary goals that are annually updated and based upon an age appropriate transition assessment and transition services, including courses of study, that will reasonably enable the student to meet those post-secondary goals and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP team meeting with the prior consent of the parent or student who has reached the age of majority (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

One hundred percent of youth aged sixteen and above with an IEP that includes appropriate measurable post-secondary goals that are annually updated and based upon an age appropriate transition assessment and transition services.

Measurement

Number of youth with IEPs aged sixteen and above with an IEP that includes appropriate measurable post-secondary goals that are annually updated and based upon an age appropriate transition assessment and transition services divided by the number of youth with an IEP age sixteen and above.

Results for 2010−11: In FFY 2010 27.2 percent of youth aged sixteen and above had an IEP that included appropriate measurable post-secondary goals that are annually updated and based upon an age appropriate transition assessment and transition services.

Target Met: No

Summary of Improvement Activities

- Use transition data collected through state-funded WorkAbility I grant procedures to ensure programs include the provision of transition services.
- Provide CASEMIS training and on-going technical assistance to ensure reliable and accurate submission of data related to this indicator.

- Disseminate and provide training based upon *Transition to Adult Living: A guide for Secondary Education*, a comprehensive handbook written for students, parents, and teachers offering practical guidance and resources to support the transition efforts for students with disabilities as they move into the world of adulthood and/or independent living.

- Provide regionalized training and technical assistance regarding elements of transition services, goals, and objectives.

INDICATOR 14: POST-SCHOOL MEASUREMENT

Description

This is a performance indicator. It measures the percent of youth, who are no longer in secondary school, had IEPs in effect at the time they left school, and were:

A. Enrolled in higher education within one year of leaving high school;

B. Enrolled in higher education or competitively employed within one year of leaving high school; or

C. Enrolled in higher education or in some other post-secondary education or training program, or competitively employed or in some other employment within one year of leaving high school (20 U.S.C. 1416[a][3][B]). Data are collected and reported by SELPAs using the June 2010 CASEMIS submission.

Target for 2010−11

A. Fifty-six percent of students are enrolled in higher education within one year of leaving high school;
B. Seventy-seven percent of students are enrolled in higher education or competitively employed within one year of leaving high school;
C. Eighty-seven percent of students are enrolled in higher education or in some other post-secondary education or training program; or competitively employed or in some other employment within one year of leaving high school.

Measurement

A. The number of youth who are no longer in secondary school, had IEPs in effect when they left school and were enrolled in higher education within one year of leaving high school divided by the number of respondent youth who are no longer in secondary school.

B. The number of youth who are no longer in secondary school, had IEPs in effect when they left school and were enrolled in higher education or competitively employed within one year of leaving high school divided by the number of respondent youth who are no longer in secondary school.

C. The number of youth who are no longer in secondary school, had IEPs in effect when they left school and were enrolled in higher education, or in some other

post-secondary education or training program, or competitively employed or in some other employment divided by the number of respondent youth who are no longer in secondary school.

Results for 2010−11

14A. The number of youth enrolled in higher education within one year of leaving high school is equal to 49.5 percent.

14B. The number of youth who are no longer in secondary school and were enrolled in higher education or competitively employed within one year is equal to 66.5 percent.

14C. The number of youth who are no longer in secondary school and were enrolled in higher education, or in some other post-secondary education or training program, or competitively employed or in some other employment is equal to 74.4 percent.

Target Met: No

Summary of Improvement Activities

- Provide CASEMIS training for SELPAs and on-going technical assistance to ensure reliable and accurate submission of data.
- Work with national and state experts on research and data approaches to address post-school outcomes data collection.
- Work with universities, colleges, and junior colleges to explain the importance of post-secondary education.
- Work with WorkAbility and other agencies and programs on the importance of employing people with disabilities at minimum wage or more.
- Use transition data in the state-funded WorkAbility I grant procedures to ensure programs include the provision of transition services.

INDICATOR 15: EFFECTIVE GENERAL PART B SUPERVISION

Description

This is a compliance indicator. The general supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible, but in no case later than one year from identification (20 U.S.C. 1416 [a][3][B]). The State also verified that each LEA with noncompliance corrected in FFY 2009 had: (a) corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02); and (b) ensured that (from last year's APR) a more stringent level of follow-up review and reporting is required of districts that have previously corrected noncompliance related to this indicator. This is to ensure that LEAs are correctly implementing the specific regulatory requirements.

Target for 2010−11

One hundred percent of noncompliance will be corrected within one year of identification.

Measurement

A. Percent of noncompliance corrected within one year of identification.

B. Number of findings of noncompliance.

C. Number of corrections completed as soon as possible but in no case later than one year from identification.

D. Percent = (B) divided by (A) times 100.

Results for 2010−11: Pending

Target Met: Pending

Summary of Improvement Activities

- Develop and maintain the IDEA 2004 information Web page with links to important references and resources on the reauthorization of the IDEA. This activity constitutes public reporting/data awareness/data utilized to reflect upon practice efforts as part of general supervision obligations under of the IDEA 2004.

- Provide staff training for corrective actions, time lines, and sanctions. Incorporate notice of potential sanctions in monitoring correspondence.

- Recruit candidates and hold civil service examinations to fill vacancies with new staff, retired annuitants, or visiting educators. This activity is intended to ensure that the CDE maintains an adequate number of qualified staff to support the work and activities (monitoring and enforcement as part of general supervision) of the SED.

INDICATOR 16: WRITTEN COMPLAINTS RESOLVED WITHIN 60 DAYS

Description

This is a compliance indicator. It measures the percent of signed written complaints with reports issued that were resolved within a 60-day time line or a time line extended for exceptional circumstances with respect to a particular complaint, or because the parent (or individual or organization) and the public agency agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

One hundred percent of written complaints resolved within 60-day time line, including a time line extended for exceptional circumstances with respect to a particular complaint.

Measurement

Percent = [(1.1(b) + 1.1(c)) divided by 1.1] times 100

(1) Signed, written complaints total
  (1.1) Complaints with reports issued
    (a) Reports with findings
    (b) Reports within time line
    (c) Reports within extended time lines
  (1.2) Complaints withdrawn or dismissed
  (1.3) Complaints pending
    (a) Complaint pending a due process hearing

Results for 2010−11: For FFY 2010, 100 percent of signed written complaints were resolved within a 60-day time line or a time line extended for exceptional circumstances.

Target Met: Yes

Summary of Improvement Activities

- Develop an integrated database to proactively identify upcoming corrective actions across all components of the monitoring system. This activity supports the continued effort to calculate and provide valid and reliable data for monitoring and enforcement as part of general supervision.

- Continue to cross-train for complaint investigations and other monitoring activities to focus on inter-rater reliability and consistency. This activity continues to improve the expertise of the CDE staff in monitoring and enforcement as part of general supervision.

- Participate in legal rounds with the Legal Audits and Compliance Division on legal issues related to special education legal issues, complaints, and noncompliance.

INDICATOR 17: DUE PROCESS HEARINGS

Description

This is a compliance indicator. It measures the percent of adjudicated due process hearing requests that were adjudicated within the 45-day time line or a time line that is properly extended by the hearing officer at the request of either party or, in the case of an expedited hearing, within the required time lines (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

One hundred percent of due process hearing requests will be fully adjudicated within the 45-day time line or a time line that is properly extended by the hearing officer at the request of either party.

Measurement

Percent = [(3.2(a) divided by 3.2(b)) divided by 3.2] times 100

(3) Total number of due process complaints filed
- (3.1) Resolution meetings
  - (a) Written settlement agreements
- (3.2) Hearings fully adjudicated
  - (a) Decisions with time line (including expedited)
  - (b) Decisions within extended time line
- (3.3) Due Process complaints pending
- (3.4) Due process complaints withdrawn or dismissed (including resolved with out hearing)

Results for 2010−11: For FFY 100 percent of due process hearing requests will be fully adjudicated within the 45-day time line or a time line that is properly extended by the hearing officer at the request of either party.

Target Met: Yes.

Summary of Improvement Activities

- Obtain data on resolution sessions and settlement agreements.
- Obtain data from school districts with due process fillings during 2009−10.

- The Office of Administrative Hearings (OAH) will consult with its advisory group in areas such as revisions to the OAH Web site, forms, documents, scheduling procedures, staff training, training materials, parent procedure manual, consumer brochure, outreach to families and students, and proposed revisions to laws and rules.

- Conduct a records review at the OAH as part of the CDE's efforts to implement recommendations of the Bureau of State Audits (BSA) report of 2008−09 to determine how it is handling oversight of the special education hearings and mediation process. This review is part of an on-going monitoring activity, as a result of the BSA report, and it constitutes the final review.

INDICATOR 18: HEARING REQUESTS RESOLVED THROUGH SETTLEMENT

Description

This is a performance indicator. It measures the percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

Sixty-seven percent of hearing requests that went to resolution sessions were resolved through resolution session settlement agreements.

Measurement

Percent = (3.1(a) divided by 3.1) times 100

(3.1) Resolution meetings
  (a) Written settlement agreements

(3.2) Hearings fully adjudicated
  (a) Decisions with time line (including expedited)
  (b) Decisions within extended time line

(3.3) Due Process complaints pending

(3.4) Due process complaints withdrawn or dismissed (including resolved with out hearing)

Results for 2010−11: Pending

Target Met: Pending

Summary of Improvement Activities

- Obtain data on resolution sessions and settlement agreements deriving solely from those sessions, directly from school districts with due process filings during 2008−09.

- The OAH will consult with its advisory group in areas such as revisions to the OAH Web site, forms, documents, scheduling procedures, staff training, training materials, parent procedure manual, consumer brochure, outreach to families and students, and proposed revisions to laws and rules.

- Conduct records review at the OAH, as part of the CDE's efforts to implement recommendations of the BSA report of 2008−09, on how it is handling oversight of the special education hearings and mediation process. This review is part of an on-going monitoring activity, as a result of the BSA report, and constitutes the final review.

INDICATOR 19: NUMBER OF MEDITATION AGREEMENTS

Description

This is a performance indicator. It measures the percent of mediations held that resulted in mediation agreements (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

At least 80 percent of mediation conferences will result in mediation agreements.

Measurement

[(2.1(a)(i) + 2.1(b)(i)) divided by 2.1] times 100

(2) Total number of mediation request received through all dispute resolution processes

(2.1) Mediations held
- (a) Mediations held related to due process complaints
  - (i) Mediation agreements related to due process complaints
- (b) Mediations held not related to due process complaints
  - (i) Mediation agreements not related to due process complaints

(2.2) Mediations pending

(2.3) Mediations withdrawn or not held

Results for 2010-11: For FFY 2010 67.2 percent of mediation conferences resulted in mediation agreements.

Target Met: No

Summary of Improvement Activities

- Implement standards for the qualifications of the OAH/contractor staff functioning as mediators.
- Implement standards for the supervision of the OAH/contractor staff functioning as mediators.

- The OAH will consult with its advisory group in areas such as revisions to the OAH Web site, forms, documents, scheduling procedures, staff training, training materials, parent procedure manual, consumer brochure, outreach to families and students, and proposed revisions to laws and rules.

- Conduct training sessions for staff and LEAs on dispute resolution and mediations on an on-going basis.

- Utilization of a monitoring system and letters to districts, as part of the on-going/required training agenda for staff involved in due process efforts at the OAH.

INDICATOR 20: TIMELY AND ACCURATE REPORTS

Description

This is a compliance indicator. It measures the percent of state-reported data (618 data, SPR, and APR) submitted to the U.S. Department of Education, which are timely and accurate (20 U.S.C. 1416[a][3][B]).

Target for 2010−11

20A. One hundred percent of state-reported data, including 618 data and APRs, are submitted on time and are accurate.

20B. One hundred percent of SELPAs will submit accurate data to the CDE in a timely manner.

Measurement

State-reported data, including 618 data, SPR, and APR, which are:

- Submitted on or before due dates (February 1 for child count, including race and ethnicity, and placement; November 2 for exiting, discipline, personnel, and dispute resolution; and February 1 for APR and assessment); and
- Accurate, including covering the correct year and following the correct measurement.

Results for 2010−11: Pending

Target Met: Pending

Summary of Improvement Activities

Modify validation codes and develop prototype reports. This activity supports general IDEA 2004 requirements.

- Provide statewide CASEMIS training. This activity supports data collection through the CASEMIS and provides training and technical assistance.
- Provide on-going technical assistance to ensure reliable and accurate submission of data. This activity supports data collection through the CASEMIS and provides training and technical assistance.

- Improve and expand anomaly analysis and reporting.
- Participation, development, implementation, and monitoring of highly qualified teachers, under the ESEA and IDEA 2004, to reflect practice and compliance.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT Request for Approval of Sonoma County Office of Education Charter Special Education Local Plan Area.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The Sonoma County of Education (COE) Special Education Local Plan Area (SELPA) is requesting approval for a membership-only charter schools local educational agency (LEA).

The State Superintendent of Public Instruction (SSPI) is referring the Sonoma COE SELPA local plan to the State Board of Education (SBE) for its review and approval. The new SELPA will exclusively serve charter schools as LEA members of its SELPA.

RECOMMENDATION

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

1. Approve the Sonoma COE SELPA local plan (attachment 1) for a membership-only charter schools LEA, subject to the following conditions:

    - The Sonoma COE must submit a revised local plan to identify charter school LEA members pursuant to California *Education Code (EC)* Section 56195.

    - The Sonoma COE local plan must meet all statutorily required elements.

    - The Sonoma COE SELPA local plan must assure students with disabilities receive a free appropriate public education (FAPE).

2. Delegate final approval of the Sonoma COE SELPA local plan to the SSPI upon receipt of documents fulfilling the conditions of approval.

BRIEF HISTORY OF KEY ISSUES

Pursuant to *EC* Section 56205 et seq., each SELPA submits a local plan to the state that describes the range of services available in the SELPA, delineates the governance structure, and describes the structure of support that students with disabilities require for obtaining a FAPE. The local plan includes: (1) plans for specific groups of students; (2) provision of a variety of programs; (3) provisions to utilize expertise in areas related to severe and low incidence disabilities; and (4) assurance of qualified special education teachers. The governing board typically includes participating member LEA and/or county chief operating officers and/or superintendents. The local plan also describes how the participating members of the SELPA follow federal and state special education laws and regulations. It also describes how the SELPA will ensure access to special education programs and services for all identified students with disabilities who reside in the SELPA service area. Each SELPA has a Community Advisory Committee (CAC) that provides active community involvement in the development and review of the local plan. Each CAC meets to review policies and procedures on a regular basis as specified in the local plan.

The CDE's review of the Sonoma COE SELPA local plan indicates the local plan addressed all statutory requirements in *EC* sections 56205 to 56206, except as noted below:

- *EC* Section 56205(a)(12)(B) - A description of the regionalized operations and services listed in *EC* Section 56836.23 and the direct instructional support provided by program specialists in accordance with *EC* Section 56368 to be provided through the plan

- *EC* Section 56205(a)(12)(C) - Verification that a CAC has been established pursuant to *EC* Section 56190

- *EC* Section 56205(a)(12)(D)(ii)(IV) – Monitoring the appropriate use of federal, state, and local funds allocated for special programs

- *EC* Section 56205(b)(4) - A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual

Attachment 2 contains the elements of the local plan.

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 SPPI. However, at such times when a proposed local plan exceeds the scope of that delegation, the SSPI refers the local plan to the SBE for its review and approval.

SUMMARY OF PREVIOUS SBE DISCUSSION AND ACTION . . . (Cont.)

In January 2010, the SBE required the SSPI to refer any new SELPAs that exclusively serve charter schools to the SBE for approval. In July 2010, the SBE approved the Los Angeles COE charter SELPA request, as referred by the SSPI.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal effects caused by a charter leaving or entering a SELPA cannot be determined at this time because of unknown variables, such as which LEA charters will be members. In general, the funding effects for an increase or decline in average daily attendance (ADA) due to the addition or loss of a charter school member is dependent on the growth status of the SELPAs that are receiving or losing members.

The funding impact is different for an all-charter school SELPA, which is being proposed by the Sonoma COE. A funding increase or reduction will occur that is equal to the statewide target rate (i.e., $465 per ADA in 2010–11) multiplied by the gain or loss in ADA in the year that it receives or loses a charter school.

ATTACHMENT(S)

Attachment 1: Sonoma COE SELPA Local Plan (37 pages)

Attachment 2: Elements of the Local Plan (9 pages).

Sonoma County Charter SELPA

Special Education Local Plan

June 2011

Steven D. Herrington, Ph.D., Superintendent

Catherine Conrado, Ed.D., SELPA Director

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CHAPTER I

CERTIFICATION OF PARTICIPATION, COMPATIBILITY AND COMPLIANCE ASSURANCES

California Department of Education
Division
(Revised 10/08)

Special Education

CERTIFICATION OF PARTICIPATION, COMPATIBILITY,

AND COMPLIANCE ASSURANCES

SED-LP-1

1. Check one, as applicable: **[ ] Single District** **[x] Multiple District** **[ ] District/County**

CDS Code / SELPA Code 4900	SELPA Name Sonoma County Charter SELPA	Application Date June 1, 2011
SELPA Address 5340 Skylane Blvd	SELPA City Santa Rosa	SELPA Zip 95403
2. Name SELPA Director (Print) Catherine Conrado, Ed.D		SELPA Director's Telephone Number (707) 524-2752

3. CERTIFICATION BY AGENCY DESIGNATED AS ADMINISTRATIVE AND FISCAL AGENCY FOR THIS PROGRAM (Responsible Local Agency (RLA) or Administrative Unit (AU))

RLA/AU Name Sonoma County	Name/Title of RLA Superintendent (Type) Steven D. Herrington, Ph.D	Telephone Number (707)524-2603
RLA/AU Street Address 5340 Skylane Blvd	RLA/AU City Santa Rosa	RLA/AU Zip 95403
Date of Governing Board Approval		

3. CERTIFICATION OF ASSURANCES

I certify that this plan has been adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs; and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws, regulations and state policies and procedures, including compliance with the Individuals with Disabilities Education Act, 20 *USC* 1400 et.seq, and implementing regulations under 34 *CFR*, Parts 300 and 303, 29 USC 705 (20), 794-794b, the Federal Rehabilitation Act of 1973, as amended, and the provisions of the California *Education Code* (*EC*), Part 30 and Chapter 3, Division 1 of Title V of the California *Code of Regulations*.

Signature of RLA Superintendent Date

4. CERTIFICATION OF COMPATIBILITY BY THE COUNTY SUPERINTENDENT OF SCHOOLS

Pursuant to *Education Code* Section 56140, this plan ensures that all individuals with exceptional needs residing within the county, including those enrolled in alternative education programs, including but not limited to, alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by the county office of education, and juvenile court schools, will have access to appropriate special education programs and related services.

County Office Name Sonoma County	Name of County Superintendent or Authorized Representative Steven D. Herrington, Ph.D.	Title County Superintendent
Street Address 5340 Skylane Blvd	Signature of County Superintendent or Authorized Representative	Date
City Santa Rosa	Zip 95403	Telephone Number (707)524-2603

5. CERTIFICATION OF COMMUNITY ADVISORY COMMITTEE

(See attached)

FOR DEPARTMENT OF EDUCATION USE ONLY

Recommended for Approval by the Superintendent of Public Instruction:

Date: _____ By: _____ Date of Approval: _____

SED-LP-2

COMMUNITY ADVISORY COMMITTEE (CAC) CERTIFICATION		
CAC signature and verification: I certify :	YES	NO
1. that the Community Advisory Committee (CAC) has advised the policy and administrative agency during the development of the local plan pursuant to *Education Code* (*EC*) Section 56194;		
2. that to ensure adequate and effective participation and communication pursuant to *EC* 56195.9, parent members of the CAC, or parents selected by the CAC, participated in the development and update of the plan for special education;		
3. that the plan has been reviewed by the CAC and that the committee had at least30 days to conduct this review prior to submission of the plan to the Superintendent pursuant to *EC* 56205 (b)(6);		
4. that the CAC has reviewed any revisions made to the local plan as a result of recommendations or requirements from the California Department of Education.		

CERTIFICATION OF COMMUNITY ADVISORY COMMITTEE	
Signature of CAC Chairperson	Date
Name of Chairperson (print) Ashleigh Flagerman	Telephone Number

If you checked [✓] NO for any of the above certifications, you may submit specific information, in writing, as to why you did not certify that the SELPA met the requirement. (Attach separate sheet, if necessary.) The Department will take this into consideration in its review of this local plan application.

CHAPTER II

ASSURANCE STATEMENT

Sonoma County Charter Special Education Local Plan Area

STEVEN D. HERRINGTON, Ph.D.,
Superintendent
CATHERINE CONRADO, Ed.D., SELPA
Director

SPECIAL EDUCATION LOCAL PLAN AREA
LOCAL EDUCATION AGENCY(LEA)
ASSURANCE STATEMENT

1. FREE APPROPRIATE PUBLIC EDUCATION (20 USC § 1412 (a)(1))

It shall be the policy of this LEA that a free appropriate public education is available to all children residing in the LEA between the ages of three through 21 inclusive, including students with disabilities who have been suspended or expelled from school.

2. FULL EDUCATIONAL OPPORTUNITY (20 USC § 1412 (a)(2))

It shall be the policy of this LEA that all pupils with disabilities have access to educational programs, nonacademic programs, and services available to non-disabled pupils.

3. CHILD FIND (20 USC § 1412 (a)(3))

It shall be the policy of this LEA that all children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located and evaluated. A practical method is developed and implemented to determine which students with disabilities are currently receiving needed special education and related services.

4. INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP) (20 USC § 1412 (a)(4))

It shall be the policy of this LEA that an Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) is developed, reviewed and revised for each child with a disability who requires special education and related services in order to benefit from his/her individualized education program. It shall be the policy of this LEA that a review of an IEP will be conducted on at least an annual basis to review a student's progress and make appropriate revisions.

5. LEAST RESTRICTIVE ENVIRONMENT (20 USC § 1412 (a)(5))

It shall be the policy of this LEA that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled. Special class, separate schooling, or other removal of a student with disabilities from the general educational environment, occurs only when the nature or severity of the disability of the student is such that education in general classes with the use of supplemental aids and services cannot be achieved satisfactorily.

6. PROCEDURAL SAFEGUARDS (20 USC § 1412 (a)(6))

It shall be the policy of this LEA that children with disabilities and their parents shall be afforded all procedural safeguards throughout the provision of a free appropriate public education including the identification, evaluation, and placement process.

7. EVALUATION (20 USC § 1412 (a)(7))

It shall be the policy of this LEA that a reassessment of a student with a disability shall be conducted at least once every three years or more frequently, if appropriate.

8. CONFIDENTIALITY (20 USC § 1412 (a)(8))

It shall be the policy of this LEA that the confidentiality of personally identifiable data information and records maintained by the LEA relating to children with disabilities and

their parents and families shall be protected pursuant to the Family Educational Rights and Privacy Act (FERPA).

9. PART C, TRANSITION (20 USC § 1412 (a)(9))

It shall be the policy of this LEA that a transition process for a child who is participating in Early Intervention Programs (IDEA, Part C) with an IFSP is begun prior to a toddler's third birthday. The transition process shall be smooth, timely and effective for the child and family.

10. PRIVATE SCHOOLS (20 USC § 1412 (a)(10))

It shall be the policy of this LEA to assure that children with disabilities voluntarily enrolled by their parents in private schools shall receive appropriate special education and related services pursuant to LEA coordinated procedures. The proportionate amount of federal funds will be allocated for the purpose of providing special education services to children with disabilities voluntarily enrolled in private school by their parents.

11. LOCAL COMPLIANCE ASSURANCES (20 USC § 1412 (a)(11))

It shall be the policy of this LEA that the local plan shall be adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs; and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the Individuals with Disabilities Education Act, the Federal Rehabilitation Act of 1973, Section 504 of Public Law and the provisions of the California Education Code, Part 30.

12. INTERAGENCY (20 USC § 1412 (a)(12))

It shall be the policy of this LEA that interagency agreements or other mechanisms for interagency coordination are in effect to ensure services required for FAPE are provided, including the continuation of services during an interagency dispute resolution process.

13. GOVERNANCE (20 USC § 1412 (a)(13))

It shall be the policy of this LEA to support and comply with the provisions of the governance bodies and any necessary administrative support to implement the Local Plan. A final determination that an LEA is not eligible for assistance under this part will not be made without first affording that LEA with reasonable notice and an opportunity for a hearing through the State Educational Agency.

14. PERSONNEL QUALIFICATIONS (20 USC § 1412 (a)(14))

It shall be the policy of this LEA to ensure that personnel providing special education related services meet the highly qualified requirements as defined under federal law, including that those personnel have the content knowledge and skills to serve children with disabilities.
This policy shall not be construed to create a right of action on behalf of an individual student for the failure of a particular LEA staff person to be highly qualified or to prevent a parent from filing a State complaint with the CDE about staff qualifications.

15. PERFORMANCE GOALS & INDICATORS (20 USC § 1412 (a)(15))

It shall be the policy of this LEA to comply with the requirements of the performance goals and indicators developed by the CDE and provide data as required by the CDE.

16. PARTICIPATION IN ASSESSMENTS (20 USC § 1412 (a)(16))

It shall be the policy of this LEA that all students with disabilities shall participate in state and district-wide assessment programs. The IEP team determines how a student will access assessments with or without accommodations, or access alternate assessments, consistent with state standards governing such determinations.

17. SUPPLEMENTATION OF STATE/FEDERAL FUNDS (20 USC § 1412 (a)(17))

It shall be the policy of this LEA to provide assurances that funds received from Part B of the IDEA will be expended in accordance with the applicable provisions of the IDEA; will be used to supplement and not to supplant state, local and other Federal funds.

18. MAINTENANCE OF EFFORT (20 USC § 1412 (a)(18))

It shall be the policy of this LEA that federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of children with disabilities except as provided in Federal law and regulations.

19. PUBLIC PARTICIPATION (20 USC § 1412 (a)(19))

It shall be the policy of this LEA that public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities are held prior to the adoption of any policies and/or regulations needed to comply with Part B of the IDEA.

20. RULE OF CONSTRUCTION (20 USC § 1412 (a)(20))

(Federal requirement for State Education Agency only)

21. STATE ADVISORY PANEL (20 USC § 1412 (a)(21))

(Federal requirement for State Education Agency only)

22. SUSPENSION/EXPULSION (20 USC § 1412 (a)(22))

The LEA assures that data on suspension and expulsion rates will be provided in a manner prescribed by the CDE. When indicated by data analysis, the LEA further assures that policies, procedures and practices related to the development and implementation of the IEPs will be revised.

23. ACCESS TO INSTRUCTIONAL MATERIALS (20 USC § 1412 (a)(23))

It shall be the policy of this LEA to provide instructional materials to blind students or other students with print disabilities in a timely manner according to the state adopted National Instructional Materials Accessibility Standard.

24. OVERIDENTIFICATION AND DISPROPORTIONALITY (20 USC § 1412 (a)(24))

It shall be the policy of this LEA to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.

25. PROHIBITION ON MANDATORY MEDICINE (20 USC § 1412 (a)(25))

It shall be the policy of this LEA to prohibit school personnel from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services.

26. DISTRIBUTION OF FUNDS (20 USC § 1411(e),(f)(1-3)
(Federal requirement for State Education Agency only)

27. DATA (20 USC § 1418 a-d)

It shall be the policy of this LEA to provide data or information to the California Department of Education that may be required by regulations.

28. READING LITERACY (State Board requirement, 2/99)

It shall be the policy of this LEA that in order to improve the educational results for students with disabilities, SELPA Local Plans shall include specific information to ensure that all students who require special education will participate in the California Reading Initiative.

29. CHARTER SCHOOLS (E.C. 56207.5 (a-c))

It shall be the policy of this LEA that a request by a charter school to participate as a local educational agency in a special education local plan area may not be treated differently from a similar request made by a school district.

In accordance with Federal and State laws and regulations,

Sonoma County Charter SELPA

certifies that this plan has been adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs; and that the agency herein represented will meet all applicable requirements of state and federal laws, regulations and state policies and procedures, including compliance with the Individuals with Disabilities Education Act, 20 USC 1400 et.seq, and implementing regulations under 34 *CFR*, Parts 300 and 303, 29 *USC* 794, 705 (20), 794- 794b, the Federal Rehabilitation Act of 1973, as amended, and the provisions of the California *Education Code*, Part 30 and Chapter 3, Division 1 of Title V of the California *Code of Regulations*.

Be it further resolved, the LEA superintendent shall administer the local implementation of procedures, in accordance with state and federal laws, rules, and regulations, which will ensure full compliance.

Furthermore, the LEA superintendent ensures that policies and procedures covered by this assurance statement are on file at the Local Education Agency and the SELPA office.

Adopted this _____ day of _____, 2011.

Yeas: _____ Nays: _____

Signed: _____

Title: County Superintendent of Schools,

CHAPTER III

GOVERNANCE AND ADMINISTRATION

GOVERNANCE AND ADMINISTRATION

PURPOSE

The Sonoma County Charter SELPA is composed of local educational agency charters (LEAs) located outside the geographic boundaries of Sonoma County. The Sonoma County Charter SELPA has designated the Office of Education as the Responsible Local Agency (RLA) and the County Superintendent of Schools as the Superintendent of the RLA.

The function of the Special Education Local Plan Area and participating agencies is to provide a quality educational program appropriate to the needs of each eligible child with a disability who is served by the Charter SELPA.

All such programs are operated in a cost effective manner consistent with the funding provisions of Education Code Section 56700 et seq, IDEA, all other laws and policies, and the procedures of the Sonoma County Charter Special Education Local Plan Area.

CHANGES IN THE GOVERNANCE STRUCTURE

Any changes in the governance structure of the Sonoma County Charter Special Education Local Plan Area, including the dividing of the SELPA into more than one operating entity, changing the designation of and/or responsibilities of the Responsible Local Agency, are subject to specific Provisions of Education Code Sections 56140, 56195, et seq., 56195.7 et seq., 56200 et seq., and 56205 et seq.

1. Any local agency which is currently designated as a Local Education Agency (LEA) participating in the Sonoma County Charter Local Plan for Special Education may elect to pursue an alternative option from those specified in Education Code Section 56195.1 by notifying the appropriate county superintendent at least one year prior to the date the alternative plan would become effective (E.C. 56195.3(b)).

2. Approval of a proposed alternative plan by the appropriate county superintendent may be based on the capacity of the LEA Charter(s) to ensure that special education programs and services are provided to all children with disabilities. (E.C. 56140(b))

3. If an alternative plan is disapproved by a county superintendent, the county office shall return the plan with comments and recommendations to the LEA charter(s). The charter or charters participating in the alternative plan may appeal the decision to the Superintendent of Public Instruction. (E.C. 56140 (b) (2))

4. Any changes in the designation of the responsible local agency for the Sonoma County Charter Special Education Local Plan Area must conform to the above code provisions and the administrative provisions and the administrative provisions for approval as specified in the Local Plan.

Disagreements among the participating agencies of the Sonoma County Charter Local Plan are attempted to be resolved within the standard operating procedures and committee

structure. If not resolved at a lower committee level, the issue would come to the Sonoma County Charter Chief Executive Officers' (CEO) Council for discussion and resolution.

GOVERNANCE STRUCTURE OF THE PLAN

California Education Code Section 56200 (c) (2) requires that the Local Plan, "specify the responsibilities of each participating county office and district governing board in the policy-making process, the responsibilities of the superintendent of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the plan." In accordance with this provision, the Sonoma County Charter SELPA has developed the following governance structure, policy development and approval process.

RESPONSIBILITIES OF EACH GOVERNING BOARD IN THE POLICY- MAKING PROCESS AND PROCEDURES FOR CARRYING OUT THE RESPONSIBILITY

The governing board for each LEA charter and the County Superintendent of Schools approves the Agreement for Participation, Representations and Warranties, and the Local Plan for Special Education. As described within those documents, the Boards of Directors of the charter schools delegate the administrative policy-making process and procedures for carrying out that responsibility to the governance structure of the Charter SELPA.

RESPONSIBILITIES OF CHIEF EXECUTIVE OFFICERS – CHARTER EXECUTIVE COMMITTEE

The Charter Executive Committee, which includes the SELPA Director, approves policies and makes recommendations on special education financial matters to the Charter CEO Council. The Executive Committee is made up of members of the CEO Council who are selected by the CEO Council by majority vote. The Sonoma County Superintendent of Schools serves as an ex-officio member of the Executive Committee.

The Charter Executive Committee is responsible for:

A. Approval of policy for special education programs and services which relate to the Charter SELPA .
B. Approval of requests to the risk pool as appropriate.
C. Addressing specific needs of individual LEA Charters as the need arises;
D. Organizing the subcommittees as necessary to meet special needs of the Charter SELPA;
E. Receiving and reviewing input from the Community Advisory Committee.

Minutes of the Executive Committee meetings are transmitted to the full membership of the Charter CEO Council. In addition, financial issues regarding special education and other issues which it felt should be considered by the CEO Council shall be placed on the agenda for discussion and/or action of the scheduled meetings.

CHARTER CHIEF EXECUTIVE OFFICER'S (CEO) COUNCIL

A Charter CEO Council is in operation for the SELPA and consists of the Chief Executive Officers of each LEA. Organizations that operate more than one charter school may have a single representative for all schools operated, but such representative shall have a number of votes equal to the number of schools represented. This group meets regularly with the County Superintendent of Schools and/or designees to direct and supervise the implementation of the Local Plan.

RATIONALE for a CHARTER SELPA

Charter schools are required to provide special education programs and services for students who attend their schools. Charter schools must be members of a Special Education Local Plan Area. The State Board of Education allows for charter schools to participate as an LEA in an out-of-geographic area SELPA. The State Board of Education also recognizes the need for Charter SELPAs in various regions throughout California.

The Sonoma County Charter SELPA effectively and efficiently supports the membership of LEA charter schools and their implementation of appropriate and compliant special education services. This Local Plan addresses the required elements needed to support the charter schools.

Charter School Admission Criteria:

It is the intent of the Sonoma County Charter SELPA to provide options for Charter Schools in terms of SELPA membership. While it is always preferable for a Charter School to participate with their geographic SELPA, the Charter SELPA has been developed to allow for a viable alternative for SELPA membership. Therefore, there are specific criteria which must be met in order for a Charter School to be considered for membership in the Sonoma County Charter SELPA.

1. For existing Charter Schools, the following guidelines must be met:

    a. Charter Schools must give a one-year notice of intent to leave their current SELPA. Schools must also notify the California Department of Education Special Education Division.

    b. During the one-year notice period, the Charter School must work collaboratively with its geographic SELPA and the Sonoma County Charter SELPA to mitigate the differences in order to determine if remaining in the geographic SELPA is a viable alternative. These attempts will be directly facilitated by Sonoma County Charter SELPA Administrative staff.

    c. The reason for the Charter School to leave their geographic SELPA must not primarily be a fiscal decision. The primary reasons must be a desire for increased access to appropriate Special Education services and a desire to implement quality programs for students with disabilities.

d. The Sonoma County Charter SELPA firmly believes in adherence to State Standards for all students. Therefore Charter Schools wishing to join this SELPA must ensure that State Standards are strictly followed in their programs. Charter SELPA members will be subject to the same self-review and monitoring process as the Charter SELPA in general.

2. Admission to the Charter SELPA

a. Process

Charter Schools will follow Education Code requirements when submitting applications for review to the Sonoma County Charter SELPA Review Committee. The Sonoma County SELPA Charter Review committee is comprised of:

- Sonoma County Superintendent of Schools
- a representative from the current Charter SELPA Executive Committee
- a representative of Charter Schools designated by the County Superintendent for Year 1 of the SELPA
- The CEO Council will designate the Charter Schools representative to this committee in Year 2 and beyond.

b. Criteria for Admission

The Sonoma County Charter SELPA Review Committee will develop specific criteria by which each application will be reviewed and rated. The criteria will include legal requirements and key indicators that would ensure that the Charter School is capable of implementing the legal requirements within the Local Plan and to provide a quality educational program for all children.

FULL CONTINUUM OF SERVICES

Both state and federal law provides that students with exceptional needs are entitled to a free, appropriate public education (FAPE) that includes special education and related services to meet their unique needs in the least restrictive environment (LRE). Each SELPA member must ensure that all children served under their jurisdiction who have disabilities, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, evaluated and served. Therefore, a full continuum of services are available within the Charter SELPA.

Members of the Charter SELPA are expected to be somewhat diverse geographically. Given this fact, the plan provides funding per the Sonoma Charter SELPA Allocation Plan to the Charter Schools so that they may appropriately provide for all the students with special education needs attending their schools. This obligation can be met in several ways, which may include:

1. Hire appropriately credentialed special education staff to provide necessary services;

2. Contract with its geographic SELPA to provide the necessary services;

3. Contract with a private entity to provide all necessary personnel to appropriately implement IEPs.

These methods of providing necessary services may be used by a single school in the Charter SELPA, or several schools within the Charter SELPA could join together to provide the services.

EVALUATION

E. C. 56600 was written, in part, to ensure that SELPAs participate with all State efforts to provide for ongoing comprehensive evaluation of special education programs in order to refine and improve programs, policies, regulations, guidelines, and procedures on a continuing basis, and to assess the overall merits of these efforts.

The Sonoma County Charter SELPA annually submits all information required by the California Department of Education, Special Education Division, in this effort, including statistical data, program information, and fiscal information related to the programs and services for children with disabilities in the Sonoma County Charter SELPA.

The Charter SELPA Administration is responsible for collecting all data required by the California Department of Education related to special education budgets and services, and reports them annually.

SELPA staff supports all members of the Charter SELPA in the collection of data related to compliance, due process procedures, availability of services, key performance indicators, etc., as needed.

DATA COLLECTION AND DEVELOPMENT OF MANAGEMENT INFORMATION SYSTEMS

California Department of Education (CDE) requires of each SELPA the collection of specified data in such a manner as to be aligned with the CASEMIS – California Management Information System.

The Charter SELPA has adopted and implemented a data collection and storage system that provides for the management and reporting of required data for state and federal systems. The SELPA continues to work with the CDE's CASEMIS to collect and report all required data related to special education student, fiscal and program services, and to provide other pertinent information necessary for the operation of the SELPA.

The Charter SELPA staff supports all the member LEA charter schools in the Charter SELPA in their collection and reporting of required data.

The Charter SELPA staff strives to support a system which is responsive to the data needs of the member LEA charter schools.

The Charter SELPA staff implements a continuous improvement model of data collection.

PROVISION FOR ONGOING REVIEW OF PROGRAMS

The State has in place a system for review of the special education programs in the districts. It is the responsibility of the SELPA to support the delivery of effective programs and services in its districts, to support a continuum of appropriate service options, to improve the quality of the programs offered, and to monitor them and participate in review processes, including the Annual Performance Reports and other required State measures. The SELPA will also monitor compliance with the Procedural Safeguards, complaint processes, mediation and due process procedures.

The Sonoma County Charter SELPA endeavors first to provide adequate information, resources and support to all member LEA charters, so that they may deliver compliant, quality services. Further, the Charter SELPA staff , under the direction of the Executive Committee and CEO Council and in conjunction with CAC, participates in all State review processes and any local review processes to ensure that appropriate and necessary services are offered for all children with disabilities and to support continuous improvement of those services.

The SELPA ensures that adequate information related to all areas of compliance is available to all the charter LEA members.

The SELPA ensures the availability of a full continuum of options, supplemental aids and services, and regionalized programs, for all children with disabilities, including low incidence, severe and non-severe.

PROCESS FOR ALLOCATING PROGRAM SPECIALIST SERVICE THROUGHOUT THE REGION

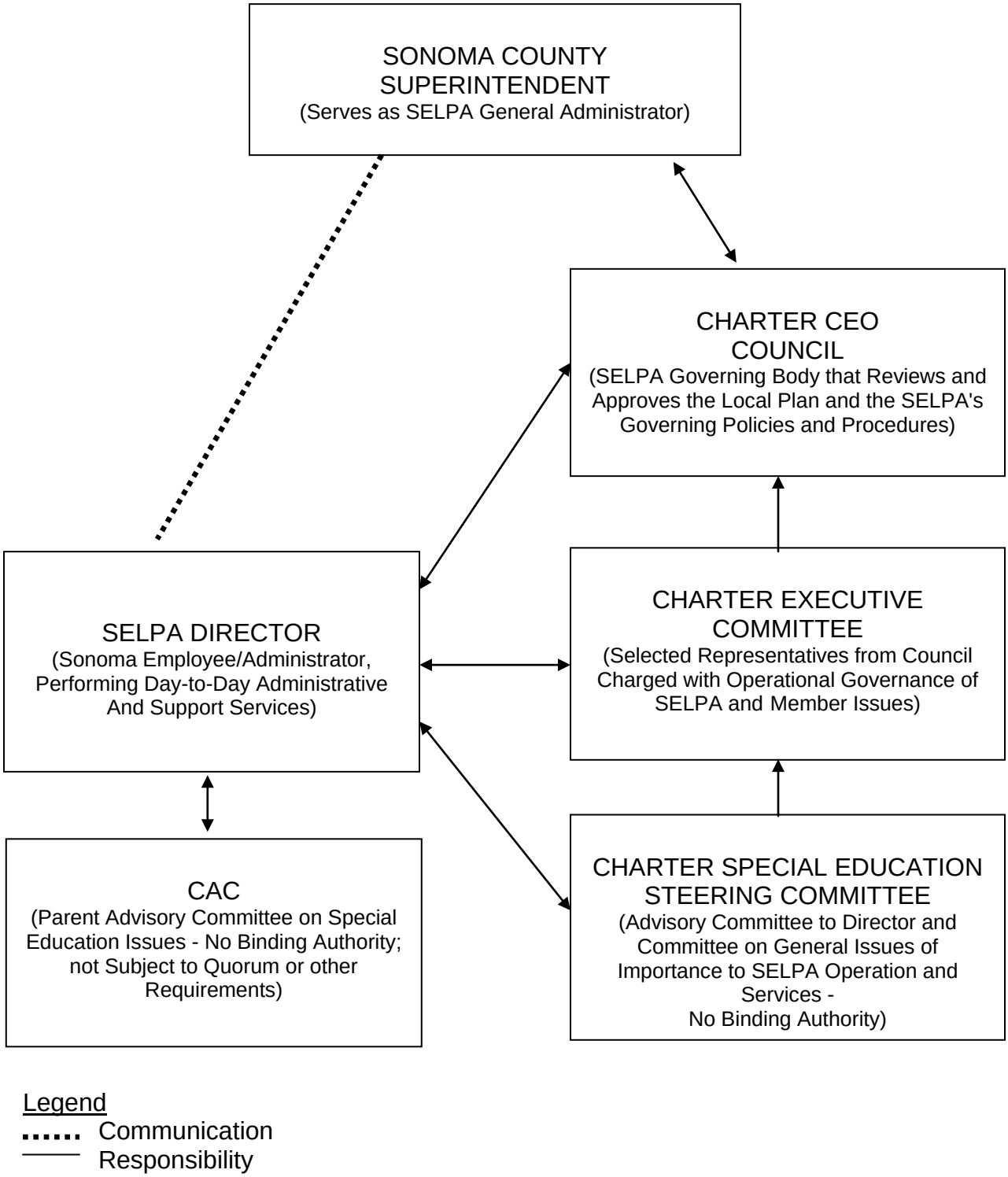
The SELPA currently employs program specialist(s). In addition, in accordance with Education Code §56780, all coordination responsibilities for program specialist services as outlined are fully supported through the governance structure of the SELPA. This includes the administrative staff, program specialist services, Charter Special Education Steering Committee, Charter Executive Committee, and Charter CEO Council.

Under the direction of the SELPA Director, the duties of program specialists are those specified in Education Code §56368 and the Local Plan:

A. Assist special education service providers, Education Specialists, and Designated Instruction and Service instructors in the planning and implementation of individual education programs for students with disabilities.
B. In conjunction with the SELPA Director, review and monitor compliance and program effectiveness.
C. Provide and conduct school staff development, program development, and innovation or special methods and approaches.
D. Provide coordination, consultation, and program development in areas to which the program specialist is assigned.
E. Assure that pupils have full educational opportunity, regardless of the Local Education Agency in the Special Education Local Plan Area.
F. Participate in I.E.P.s at request of Local Education Agency or parent.
G. Assist Local Education Agencies with non-public, non-sectarian and state school placements when requested.

Safeguards for the assurance of appropriate use of regionalized funds are the responsibility of the SELPA Director and as approved by the governance structure. Program Specialist(s) are employed by the RLA and supervised by the SELPA Director.

Sonoma County Charter SELPA
Governance Flow Chart



Legend
..... Communication
——— Responsibility

AGREEMENT FOR PARTICIPATION

SONOMA COUNTY CHARTER SELPA

The Sonoma County Charter Special Education Local Plan Area (SELPA) as authorized by the California State Board of Education assists California charter schools that have successfully completed the SELPA membership process and have signed this Agreement for Participation (Agreement) which are deemed Local Educational Agencies pursuant to Education Code Section 47641, in meeting their obligations to provide special education and related services (each term as defined in 20 U.S.C. Section 1401 and the applicable rules, regulations and interpretive guidance issued thereunder and collectively referred to as Services) to applying or enrolled students actually or potentially entitled to Services under applicable state and federal laws and regulations (Students). SELPA Membership also ensures compliance with the LEA Member's obligations under Education Code Sections 56195, et. seq.

It is the goal of the Sonoma County Charter Special Education Local Plan Area (SELPA) that all charter pupils with exceptional needs within the SELPA receive appropriate special education programs. It is the intent of the Charter SELPA that special education programs be coordinated and operated in accordance with the governance structure.

The respective Charter Schools who are signatories hereto, the Sonoma County Office of Education Superintendent of Schools, and the Sonoma County Charter SELPA, mutually agree as follows:

DEFINITIONS

LEA: as described in Education Code Section 56026.3., shall refer to a specific LEA Member Charter School or Charter School development organization as appropriate.

RLA: Responsible Local Agency, as described in Education Code Section 56030. Federal Regulations use the term "Administrative Unit" or "AU". For purposes of this Agreement, the Sonoma County Office of Education shall be the RLA or AU for the Sonoma County Charter SELPA.

Charter SELPA CEO Council: This group is composed of a representative from each Charter School in the Charter SELPA at the Chief Executive Officer level. Organizations that operate more than one Charter School at their option may have a single representative for all schools operated, but such representative shall have a number of votes equal to the number of schools represented. This group would meet regularly with the County Superintendent of Schools to direct and supervise the implementation of the Local Plan.

Charter Executive Committee: The Charter Executive Committee is comprised of representatives from the Charter SELPA CEO Council and shall include the Sonoma County Superintendent and staff designees.

Efforts will be made to ensure the committee has broad representation in a variety of areas; e.g. various geographical areas of the Charter SELPA, CMO representation, single charter, large

charter, small charter, original founding members, new members. This committee makes recommendations to the CEO Council on fiscal and policy matters.

Charter Special Education Steering Committee**:** This Steering Committee serves in an advisory capacity to the Charter SELPA Director. Each Charter School is entitled to select one representative for this committee – either a teacher or an administrator. Representatives commit to a full year of service, which would include meeting regularly for the purpose of advising the Charter SELPA Director and receiving and disseminating direct program/instructional information.

Special Education Community Advisory Committee – CAC: Each Charter School shall be entitled to select a parent representative to participate in the Special Education Community Advisory Committee to serve staggered terms in accordance with E.C. § 56191 for a period of at least two years. Selected parents will be the parent of a child with a disability. This group will advise the Charter SELPA Director on the implementation of the Sonoma County Charter SELPA Local Plan for Special Education in Charter Schools ("Local Plan") as well as provide local parent training options in accordance with the duties, responsibilities and requirements of E.C. §§ 56190-56194.

Because of the geographic diversity anticipated within the Sonoma County Charter SELPA many meetings will be conducted through the use of teleconferencing or video conferencing.

IEP (Individualized Education Program): A plan that describes the child's current abilities, sets annual goals and instructional objectives, and describes the education services needed to meet these goals and objectives in accordance with E.C. § 56032.

IEP Team: A group of team members, as defined in Education Code § 56341, who meet for the purpose of determining student eligibility for special education and developing, reviewing, or revising a pupil's IEP and recommendations for placement.

LEA MEMBER RESPONSIBILITIES AND DUTIES:

Each LEA agrees that it is subject to the following nondelegable responsibilities and duties under this Agreement, all adopted SELPA policies and procedures, the Local Plan, and governing federal and state laws and regulations (collectively, LEA Member Obligations), compliance with which is a condition precedent to membership, and continuing membership, in the SELPA.

The LEA Member as a participant in the Local Plan shall perform the following and be exclusively responsible for all costs, charges, claims and demands arising out of or related to its own pupils and its respective programs operated by the LEA Member:

A. Adhere to the Local Plan, Policies and procedures as adopted by the Charter CEO Council.
B. Select, compensate and determine the duties of the special education teachers, instructional aides, and other personnel as required to conduct the program specified in the Local Plan, and in compliance with state and federal mandates; Charter Schools may contract for these services;

C. Conduct and/or contract those programs operated by the LEA Member in conformance with the Local Plan and the state and federal mandates;

D. Organize and administer the activities of the IEP Teams, including the selection of the LEA Member staff and who will serve as members of the IEP Team in conformance with the Education Code Section 56341 and in compliance with the Local Plan;

E. Organize and maintain the activities of the Resource Specialist Program in conformance with Education Code Section 56362; the Designated Instruction and Service in conformance with Education Code Section 56363; and Special Classes and Centers in conformance with Education Code Section 56364.1 and 56364.2; and in compliance with the Local Plan;

F. Provide facilities as required to house the programs conducted by the LEA;

G. Provide for the acquisition and distribution of the supplies and equipment for the programs conducted by the LEA Member;

H. Provide and/or arrange for such transportation services as may be required to provide the special education programs specified that are conducted by the LEA Member;

I. Cooperate in the development of curricula for the classes and the development of program objectives with the AU. Cooperate in the evaluation of the programs as specified in the Local Plan, with the AU;

J. Cooperate in the development of the procedures and methods for communicating with the parents and/or legal guardians of the individuals served in conformance with the provisions of the Local Plan with the AU;

K. Provide for the documentation and reporting of assessment procedures used for the placement of individuals and the security thereof. Provide for the continuous review of placements and the assessment procedures employed to insure their effectiveness and applicability, and insure the continued implementation and compliance with eligibility criteria;

L. Provide for the integration of individuals educated under this agreement into the general education school programs and provide for evaluating the results of such integration according to specifications of the Local Plan;

M. Conduct the review of individual placements requested by the parents and/or legal guardians of the individual in accordance with the Local Plan;

N. Prepare and submit all required reports, including reports on student enrollment, program expenditures, and program evaluation;

O. Designate a person to represent the LEA Member on the Charter Special Education Steering Committee to monitor the implementation of the Plan and make necessary recommendations for changes and/or modifications;

P. Designate a representative for the LEA Member to serve on the Special Education Community Advisory Committee, in accordance with Education Code Section 56192-56193 and pursuant to the procedures established in the Local Plan;

Q. Designate the LEA Member Superintendent/CEO or School Leader by whatever name designated to represent the LEA Member on the Charter CEO Council to supervise and direct the implementation of the Plan;

R. Receive special education funding from Sonoma County in accordance with the Charter SELPA's Allocation and Budget Plan.

S. It is understood that except as otherwise may be specifically agreed from time to time the RLA shall have no responsibility for the operation of any direct educational program service of any kind.

T. Each LEA Member shall annually provide RLA with LEA Member's annual audit report, as conducted according to Education Code Section 47605(b)(5)(l). Annual submission shall be made annually, no later than January 31st. LEA Member further agrees to forward RLA copies of State Controller's Office communications regarding audit report corrective actions and a corrected audit report, if applicable. Should an LEA Member be the subject of a FCMAT report (or other agency review) that indicates concern with inappropriate use of funds, financial insolvency concerns, or operational concerns, the LEA Member shall notify RLA and provide the RLA with a copy of the report.

U. An LEA Member contracting for external Services, consistent with definition shall do so only with duly licensed and authorized entity or individual. The contract for Services executed by the LEA Member and the external consultant or contractor shall include a clause stating the contractor or consultant agrees to defend and indemnify the LEA Member, and the SELPA, RLA, the Superintendent, and other Indemnified Parties in response to any claim arising from the contractor's or consultant's actual or alleged failure to provide Services in conformity with these obligations.

With respect to external services and/or Student placements, the LEA Member shall affirmatively monitor, assess, and to the extent necessary, intervene or manage such external placements or Services in conformity to ensure that the LEA Member's Obligations to the Student are still being met.

AU/RLA DUTIES AND RESPONSIBILITIES:

Pursuant to the provisions of Education Code Section 56030 et seq., the AU shall receive and distribute regionalized service funds, provide administrative support, and coordinate the implementation of the Sonoma County Local Plan for Special Education in Charter Schools participating in the Charter SELPA. In addition, the AU shall perform such services and functions as required to accomplish the goals set forth in the plan. Such services include, but are not limited to, the following:

A. Act as agent for Charters participating in the Plan as specified in the Local Plan. Receive, compile and submit required enrollment reports and compute all special education apportionments as authorized under Education Code Section 56836 et seq. Receive data from each LEA Member to compile and submit budgets for the programs and monitor the fiscal aspects of the program conducted. Receive the special education

apportionments of Regionalized Services as authorized under Education Code Section 56836.02;

B. Coordinate with LEA Members in the development and implementation of a systematic method for referring and placing individuals with exceptional needs who reside in the Charter, including the methods and procedures for communication with the parents and/or guardians of the individuals according to procedures in the Local Plan;

C. Assist LEA members in assessing data and reviewing interventions prior to a referral to assess for special education. Review implementation of standards based curriculum and provide for continuous evaluation of the special education programs;

D. Coordinate the organization and maintenance of the Special Education Community Advisory Committee (CAC) as part of the responsibility of the AU to coordinate the implementation of the plan pursuant to Education Code Section 56030. Provide for the attendance of designated members of the AU's staff at all regularly scheduled Special Education Community Advisory Committee meetings;

E. Coordinate community resources with those provided by LEA Member and the AU, including providing such contractual agreements as may be required;

F. Organize and maintain the Charter Special Education Steering Committee to monitor the operations of the Local Plan and make recommendations for necessary revisions, including, but not limited to:

1. Monitoring the application of eligibility criteria throughout the Local Plan area;
2. Coordinating the implementation of the transportation for special education pupils;
3. Coordinating the system of data collection, management, and evaluation;
4. Coordinating personnel development and curriculum development for special education, including alternative dispute resolution;
5. Coordinating the identification, referral, assessment, instructional planning, and review procedures, including the communication with parents and/or legal guardians regarding rights and responsibilities for special education;
6. Developing interagency referral and placement procedures; and,
7. Evaluating the effectiveness of special education programs.

G. Support the Charter SELPA CEO Council by attendance and participation of the County Superintendent and/or designees at meetings;

H. Provide for regular inservice training for AU and LEA Member staff responsible for the operation and conduct of the Local Plan. Regular inservice training may also be provided to CAC representatives;

I. Provide the method and the forms to enable the LEA Member to report to the AU on student enrollment and program expenditures. Establish and maintain a pupil information system;

J. Provide reasonable assistance to the LEA Member upon request from LEA Member administration, or individual cases, including but not limited to:

1. Complaint issues;

2. Hearing issues; and
3. Identification of appropriate programs for specific pupils.

K. Perform other services reasonable and necessary to the administration and coordination of the Plan;

L. Receive special education funding and distribute funds in accordance with the Charter SELPA Allocation and Budget Plan.

M. Schedule a public hearing at the Sonoma County Office of Education for purposes of adopting the Annual Service Plan and Budget Plan.

PROVISIONS OF THE AGREEMENT

A. Consistent with this Agreement each LEA Member shall have full and exclusive authority and responsibility for classifying employment positions within their respective LEA Member.

B. No LEA Member may enter into any agreement, MOU or other undertaking that would bind or limit independent decision making on the same or similar matters by any other LEA Member.

C. The managerial prerogatives of any participating LEA Member shall not be infringed upon by any other participating LEA Member except upon mutual consent of an affected LEA Member(s), or unless as otherwise set forth by this Agreement.

D. Any LEA Member may terminate its Charter SELPA membership at the end of the fiscal year next occurring after having provided twelve months prior written notice as follows:

1. Prior initial written notice of intended termination to the RLA of at least one year, and
2. Final written notice of termination to the RLA no more than six months after the LEA Member's initial notice of intended termination.

The RLA County Superintendent of Schools may terminate any LEA Member's Charter SELPA membership at the end of the fiscal year next occurring after having provided twelve months prior written notice as follows:

1. Prior initial written notice of intended termination to the LEA Member of at least one year, and
2. Final written notice of termination to the LEA Member no more than six months after the RLA's initial notice of intended termination.

E. Funding received by a charter is subject to the elements of the allocation plan. The allocation plan is updated on an annual basis and approved by CEO council. Funding is subject to administrative fees, set-aside provisions, differentiated funding in year 1 and year 2, and potential recapture provisions if funds are not spent. All of these details are outlined in the allocation plan document. Participants agree by signing this document to agree to the provisions of the allocation plan.

F. In accordance with their needs the LEA Members and the AU in Sonoma County shall continue to manage and operate programs in their respective LEAs in accordance with Education Code Section 56172.

G. The Charter CEO Council shall have the responsibility and right to monitor and correct any special education matter which affects the Special Education Local Plan Area. The AU staff shall be responsible for coordinating and informing the governance structure on any such matter.

H. The LEA Members and the AU will maintain responsibility for program administration for the service they provide. All administrative requirements that govern that unit will be in effect regarding special education services. The Superintendent and/or Administrators of Special Education in each LEA Member and in the AU will be responsible for the daily operation of their respective programs.

I. The student program placement is and shall remain the responsibility of the respective LEA Member. Student admission and transfer shall be determined in accordance with the respective charter, SELPA and Sonoma County Board policies and the respective charter, SELPA and Sonoma County procedures established in accordance with the identification, assessment, instructional planning and placement set forth in the Local Plan. Nothing contained herein shall be interpreted as providing automatic transfer rights to parents or students. The charter enrolling any pupil shall have the exclusive right to approve placement in any other agency. Each LEA of service shall have the right to determine if such LEA is able to provide a free, appropriate public education for the pupil.

J. Supervision and other incidents of employment of special education staff will be the responsibility of the respective LEA Member or AU. Each LEA Member and the RLA shall have full exclusive and independent control over the development, change, implementation and application of all evaluation procedures their respective LEA Member or in the RLA as the case may be. All LEA Members shall have full and exclusive authority to recruit, interview, and hire special education staff as needed by such LEA Member to provide continuity and service to their special education students.

K. The Charter Executive Committee shall review and make Allocation Plan recommendations. The Allocation Plan defines the distribution of State and Federal funds within the SELPA for the costs of providing special education programs.. The Charter CEO Council shall approve all changes. There is a legal requirement for a public hearing and adoption of an annual service and budget plan. This shall be done annually by the Charter CEO Council. This SELPA will not have any property tax allocations.

WARRANTIES AND REPRESENTATIONS:

As a condition of membership, each LEA Member warrants and represents that at no time during such LEA Member's membership in the Sonoma County Charter SELPA shall any such LEA Member, directly or indirectly, provide special education funding for the benefit of a for-profit entity. All Funding provided through the Sonoma County Charter SELPA shall be treated as a restricted funding source to be expended only for special education or special education services. Nothing contained herein shall be interpreted as prohibiting any LEA Member from expending funds for non-public agency or non-public school purposes for the benefit of children served.

STANDARD OF CONDUCT

Each LEA Member, at all times, shall conduct itself in such a manner as to act in the best interests of all other Charter SELPA members. LEA Members shall not engage in any activity or enterprise which would tend to injure or expose the Charter SELPA or any of its members to any significant risk of injury or any kind. No LEA Member shall undertake to independently act on behalf of the Charter SELPA or any of its members without express written authorization of the Charter SELPA.

RESERVATION OF RIGHTS

The RLA shall not be responsible for any LEA Member or Charter SELPA obligations or duties of any kind or nature except as explicitly set forth in this agreement.

INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent allowed by law, each LEA Member agrees to defend, indemnify, and hold harmless the SELPA and its individual other Members, Sonoma County Office of Education, and the Superintendent, and each of their respective directors, officers, agents, employees, and volunteers (the Indemnified Parties), from any claim or , demand, damages, losses or expenses (including, without limitation, reasonable attorney fees) that arises in any manner from an actual or alleged failure by a LEA Member to fulfill one or more of the LEA Member's Obligations except to the extent that such suit arises from the RLA's negligence.

Further, the Sonoma County Charter SELPA shall be responsible for holding harmless and indemnifying the RLA for any costs of any kind or nature arising out of or related to this agreement other than as specifically contemplated herein, except to the extent that such cost arises from the RLA's negligence.

FULL DISCLOSURE

Except as otherwise prohibited by law, upon request by the Charter SELPA or any of its members, a Charter SELPA member shall provide any requested information, documents, writings or information of any sort requested without delay.

CHAPTER IV

POLICIES / PROCEDURES

The Sonoma County Charter SELPA has adopted Policies and Administrative Regulations as outlined on the list on page 32. The Policies set forth in full within this document are included to fulfill local plan document requirements.

Sonoma County Charter SELPA Policies

1.	Comprehensive Plan for Special Education	CEOP	AR
2.	Identification and Evaluation of Individuals for Special Education	CEOP	AR
3.	Individualized Education Program	CEOP	AR
4.	Procedural Safeguards and Complaints for Special Education	CEOP	AR
5.	Confidentiality of Student Records	CEOP	AR
6.	Part C – Transition	CEOP	
7.	Students with Disabilities Enrolled by their Parents in Private Schools	CEOP	
8.	Compliance Assurances	CEOP	
9.	Governance	CEOP	AR
10.	Personnel Qualifications	CEOP	AR
11.	Performance Goals and Indicators	CEOP	
12.	Participation in Assessments	CEOP	AR
13.	Supplementation of State and Federal Funds	CEOP	
14.	Maintenance of Effort	CEOP	AR
15.	Public Participation	CEOP	
16.	Suspension/Expulsion	CEOP	AR
17.	Access to Instructional Materials	CEOP	
18.	Overidentification and Disproportionality	CEOP	
19.	Prohibition of Mandatory Medicine	CEOP	
20.	Data	CEOP	
21.	Literacy	CEOP	
22.	Admission of LEAs to the Charter SELPA	CEOP	AR
23.	Behavioral Interventions for Special Education Students	CEOP	AR
24.	Nonpublic, Nonsectarian School and Agency Services for Spec. Ed.	CEOP	AR
25.	Conflict of Interest	CEOP	

V. ATTACHMENTS

a. List of Original Members of the Sonoma County Charter SELPA – 2012/13 .....Page xx

Attachment A

Charter SELPA Local Plan

To Add Charter Schools for 2012/13

(Submitted to CDE in _____)

The Sonoma County Charter SELPA found the following ____ charters met their criteria for admission for 2012/13 and have approved these charters to join the SELPA pending CDE approval. It is also understood that additional charters approved and referred by the State Board and approved by CDE to join the Charter SELPA are included within the Charter SELPA Local Plan.

	Charter School	CDS Number	Page
1	XXXXXXXXXXXXXXXXX	XXXXXXXXXXX	XXX
2	XXXXXXXXXXXXXXXXX	XXXXXXXXXXX	XXX
3			
4			
5			

Charter SELPA School Information

Today's Date: _____

Name of Charter School: _____

CDS Code: _____

Address: _____

Phone: _____ Fax: _____

School Type:___Traditional __ Independent Study __Virtual/Distance Learning

Grades Served: _____ CBEDS**:** _____

Special Education Contact: _____

Special Education Contact's Phone: _____

Email: _____

Member of CMO? ___ Yes __No If yes, name of CMO:
_____

Name of CEO: _____

Authorizing Agency: _____

Date Authorized: _____

Date Opened: _____

Geographic SELPA: _____

Reason for leaving Geographic SELPA:
_____

_____

Joined Sonoma County Charter SELPA: _____

CDE Charter Division Notified: _____

CDE Notified:
_____

Charter School Local Plan Implementation

The _____will meet the Education Code Requirements for Special Education.

Education Code §56140 a-g

(a) The County Superintendent, knowing this is an out-of-geographic Charter School, still assumes the Local Plan requirements to monitor and coordinate special education for this school.

The County Superintendent and the Sonoma County Charter SELPA ensure there is a coordinated system of services to students with disabilities.

Education Code §56150 through 56177 are the responsibility of the County where the parent resides, or in the case of Foster Youth where the student is placed. The charter school is aware of the location of these agencies and a resource guide has been provided with specific contact information.

Education Code §56190

The Charter School LEA will have the opportunity to representation and participation with the Charter SELPA Community Advisory Committee. Meetings are scheduled for three times a year. Parents within the charter school enrollment region will have the opportunity to review and comment on Local Plan revisions. Parents will have the opportunity to attend trainings or participate via webcasting or teleconferencing.

Education Code §56195

The Charter School LEA will participate in the Charter School Allocation Plan. The charter school will not be treated differently with regards to funding and resource allocation.

Education Code §56195.1

The Charter School LEA will adopt the Sonoma County Local Plan and assurance adherence. The _____Charter School will implement and participate in the governance structure.

Through the application process the County Superintendent of Schools, the SELPA Director, and the CEO Admission Committee have reviewed and accepted this Charter LEA for membership. The committee agrees the school is either capable, or has an acceptable plan in place, to ensure services to students with disabilities.

The _____ Charter LEA will designate specific staff to attend Charter SELPA Special Education meetings.

Education Code §56195.7

The _____ Charter LEA adopts the Sonoma County Charter School Procedural Guide, Board Policies and Administrative Regulations for implementation. Technical assistance and supports will be provided by SELPA staff to ensure understanding and compliance.

The _____ Charter LEA has agreed to participate in professional development regarding SEIS (Special Education Management Information System) and the computerized IEP program.

Education Code §52605

Charter School LEAs and their governing Boards have adopted the Local Plan and the twenty-nine federal assurances. The Charter SELPA staff agrees to support the Charter LEA in their implementation. Technical staff will be available.

Education Code §56205 (12) (a) Refer to §52605

Education Code §56205 (13)

Annually when the Charter School LEA submits data to the SELPA for the Personnel Data report they will also submit staff and credential information. The SELPA staff will review data and confirm appropriate staff.

Education Code §56205 (G) (3)

Charter School LEAs in the state of California are not authorized to serve preschool students.

The Charter School LEA may need additional assistance in this area which will be provided by the SELPA.

Education Code §5206

The Charter School LEA will utilize the forms and procedures established to access the specialized equipment and services fund.

In the case where required services are unavailable or beyond the Charter LEA's capability, the Sonoma County Charter SELPA will contact the local geographic SELPA to see if services and/or placement can be obtained on a fee for services basis.

Education Code §56240 Staff Development

The Charter School LEA will be provided with professional development that is necessary for them to comply with all reporting requirements. In addition, based on the needs of their school, they may request additional trainings from SELPA staff.

Monthly the SELPA provides a Staff Development Bulletin with opportunities for participation and contact information.

The SELPA also assists the Charter LEA in assessing local and regional opportunities.

The _____ Charter LEA will have the opportunity to participate in professional development activities provided by their Charter Management Organization, _____, Inc. (or the SELPA, if applicable or no CMO.)

Additional Considerations §56475

On behalf of the Charter LEA the SELPA initiates a MOU for AB3632, Government Code 26.5 Mental Health Services. Students with disabilities enrolled in the Charter LEA may be eligible. The SELPA is assisting the LEA in accessing these services.

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56205 (a) Each special education local plan area submitting a local plan to the superintendent under this part shall demonstrate, in conformity with subsection (a) of Section 1412 of, and paragraph (1) of subsection (a) of section 1413 of, Title 20 of the United States Code, that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:	56195.1 (a)(12)(D)	Page 4	Yes (X) No ( )
56205 (a) (12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multi-district plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.	56195.1 (a)(12)(D)	Page 22	Yes (X) No ( )
56205 (a) (12) (B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan		Page 20 Page 21	Yes (X) No ( )
56205 (a) (12) (C) Verification that a community advisory committee has been established pursuant to Section 56190.		Page 5	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
Multidistrict SELPAs **56205 (a) (12) (D)** Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:			
56205 (a) (12) (D) (i) Specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.	56195.1	Page 16 Page 22 Page 24	Yes (X) No ( )
56205 (a) (12) (D) (ii) Identifying the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local education agencies within the special education local plan area in relation to the following:	56195.1 (b)	Page 16	Yes (X) No ( )
56205 (a) (12) (D) (ii) (I) The hiring supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.		Page 10 #17	Yes (X) No ( )
56205 (a) (12) (D) (ii) (II) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local education agencies within the special education local plan area.	56195.1 (b)	Page 26	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56205 (a) (12) (D) (ii) (III) The operation of special education programs.		Page18	Yes (X) No ( )
56205 (a) (12) (D) (ii) (IV) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.		Page 15 Page 27 (L)	Yes (X) No ( )
56205 (a) (12) (D) (ii)(V) The preparation of program and fiscal reports required of the special education local plan area by the state.		Page 19	Yes (X) No ( )
56205 (a) (13) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.		Page 9 (#14) Page 9 (#13) Page 9 (#12)	Yes (X) No ( )
56205 (b) (1) Each local plan submitted to the superintendent under this part shall also contain all the following:		Page 37 MOU	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
1) An Annual Budget Plan that shall be adopted at a public hearing held by the special education local plan area Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraph (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:		Page 4	The due date for the Annual Budget Plan is March 31 each fiscal year. Received by CDE March 9, 2011
56205(b) (1) (A) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).		Page 11 Page 15	Yes (X) No ( )
56205(b) (1) (B) Administrative costs of the plan.		Page 15	Yes (X) No ( )
56205(b) (1) (C) Special education services to pupils with severe disabilities and low incidence disabilities.		Page 7 Page 20	Yes (X) No ( )
56205(b) (1) (D) Special education services to pupils with nonsevere disabilities.		Page 7 Page 20	Yes (X) No ( )
56205(b) (1) (E) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.		Page 7 Page 18	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56205(b) (1) (F) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.		Page 20 Page 21	Yes (X) No ( )
56205(b) (1) (G) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.		Page 29	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56205 (b) (2) An Annual Service Plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school district in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) and paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and with Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the physical location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices or education, and juvenile court schools, regardless of whether the district or county office of education is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.		Page 4 Page 18 Page 19 Page 24	The due date for the Annual Service Plan is March 31 each fiscal year. Submitted to CDE March 9, 2011.

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56205 (b) (3) A description of programs for early childhood special education from birth through five years of age.		Page 7	Yes (X) No ( )
56205 (b) (4) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual.	56205 (b) (1) 56205 (b) (2)	Page 20	Yes (X) No ( )
56205 (b) (5) A description of a dispute resolution process, including mediation and final binding arbitration to resolve disputes over the distribution of funding, the responsibilities for service provision, and the other governance activities specified within the plan.		Page 15 Page 20	Yes (X) No ( )
56207.5 A request by a charter school to participate as a local educational agency in a special education local plan area may not be treated differently from a similar request made by a school district. In reviewing and approving a request by a charter school to participate as a local educational agency in a special education local plan area, the following requirements shall apply:		Page 12	Yes (X) No ( )
56207.5 (a) The special education local plan area shall comply with Section 56140.		Page 4	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
56207.5 (b) The charter school shall participate in state and federal funding for special education and the allocation plan developed pursuant to subdivision (i) of Section 56195.7 or Section 56836.05 in the same manner as other local educational agencies of the special education local plan area.	56195.1 (f) 56203	Page 12 Page 27 Page 28 Page 29	Yes (X) No ( )
56207.5 (c) The charter school shall participate in governance of the special education local plan area in the same manner as other local educational agencies of the special education local plan area.	56195.1 (f) 56203	Page 12	Yes (X) No ( )
Reading Criteria: In order to improve the educational results for students with disabilities, SELPA Local Plans shall include specific information to ensure that all students who require special education will participate in the California Reading Initiative. Further, SELPA Local Plans shall include assurances that special education instructional personnel will participate in staff development inservice opportunities in the area of literacy that includes:	State Board Requirement 2/10/99	Page 11	Yes (X) No ( )
a. Information about current literacy and learning research		Page 11	Yes (X) No ( )
b. State adopted standards and frameworks		Page 4 Page 13	Yes (X) No ( )
c. Increased participation of students with disabilities in statewide student assessments		Page 10 (#16)	Yes (X) No ( )

CHAPTER 3. ELEMENTS OF THE LOCAL PLAN	Cross Reference	Page # where criteria can be located in Local Plan	Compliance Checklist (For CDE use)
Article 1. 1 State Requirements			
d. And, research based instructional strategies for teaching reading to a wide range of diverse learners in order to increase the percentage of children with disabilities who are literate.		Page 11	Yes (X) No ( )
Local Plans shall also include assurances that students with disabilities will have full access to:			
a. All required core curriculum including state adopted core curriculum text books and supplementary text books		Page 7	Yes (X) No ( )
b. Instructional materials and support in order that students with disabilities attain higher standards in reading		Page 7 Page 11	Yes (X) No ( )

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Appeal of a decision by the San Mateo County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Redwood City School District to the Las Lomitas School District in San Mateo County	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The San Mateo County Committee on School District Organization (County Committee) received a petition (Attachment 2) to transfer 43 homes from the Redwood City School District (SD) to the Las Lomitas SD. At the time the petition was submitted, no students from the area attended a public school—all were enrolled in private schools in the city of Menlo Park.

On November 17, 2009, the County Committee found that the proposal failed to substantially meet three of the required nine conditions of California *Education Code* (*EC*) Section 35753—Condition 4 (significant disruption of educational performance); Condition 7 (significant increase in school housing costs); and Condition 9 (substantial negative effect on fiscal status). The County Committee subsequently disapproved the transfer on a 5 to 2 vote (with one abstention). The governing board of the Redwood City SD opposes the proposed transfer of territory while the Las Lomitas SD board has not taken a formal position.

Chief petitioners or affected school districts may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). On December 7, 2009, the chief petitioners (appellants) submitted their appeal (Attachment 3) to the San Mateo County Superintendent of Schools (County Superintendent). The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the California State Board of Education (SBE).

The appellants contend that County Committee “abused its discretion by denying the petition for the transfer without substantial evidence in the record.” Appellants further claim that the County Committee disapproved the proposal primarily because of the concern that approval of the transfer would set a “precedent” that would encourage future transfers from the Redwood City SD. The appellants disagree with this concern, believing that approval of their transfer actually would settle the “boundary

SUMMARY OF THE ISSUES (Cont.)

conflict" by unifying the neighborhood and establishing the boundary along "natural and municipal barriers."

Appellants further assert that their homes already should have been transferred to the Las Lomitas SD. Neighboring homes immediately southeast of the proposed transfer area were transferred from the Redwood City SD to the Las Lomitas SD by the County Committee in 2000 following that territory's annexation into the city of Woodside (it previously was unincorporated territory). The proposed transfer area similarly was annexed into the city of Woodside in 2003. Appellants believe that their homes would have been transferred into Las Lomitas SD with their neighbors' homes if they had been part of the city of Woodside prior to 2000.

Regarding the County Committees' decisions on the *EC* Section 35753 conditions, the appellants raise the following concerns:

- Condition 2 (community identity)—Although the County Committee did determine that affected school districts would remain organized on the basis of a substantial community identity if the proposed transfer of territory was approved, appellants believe that the issue of commute safety was incorrectly considered during consideration of this condition. Appellants contend that student commutes to schools in Las Lomitas SD would be considerably safer than commutes to schools in Redwood City SD.

- Condition 4 (significant disruption of educational performance)—Appellants contend that this condition is substantially met because there would be no significant negative effect on educational programs since no students from the area currently attend any public schools.

- Condition 7 (significant increase in school housing costs)—Appellants believe that the transfer of five to six students into the Las Lomitas SD would not significantly increase school housing costs for the district.

- Condition 9 (substantial negative effect on fiscal status)—Appellants state that the transfer of no students and 43 homes (with corresponding tax revenue) would not have a significant negative effect on the fiscal status of either affected district.

The California Department of Education (CDE) finds that all minimum threshold conditions of *EC* Section 35753 are substantially met. However, CDE does not agree with the appellants contentions that:

- "Setting a precedent" should not have been a determining factor in the County Committee's decision to disapprove the territory transfer proposal.

- The County Committee disapproved the proposed territory transfer without substantial evidence in the record."

SUMMARY OF THE ISSUES (Cont.)

- Their homes would have been transferred into Las Lomitas SD with their neighbors' homes if they had been part of the city of Woodside prior to 2000.

- The County Committee incorrectly considered the issue of commute safety.

The County Committee, as with the SBE, is subject to the legislative intent cited in *EC* Section 35500, that "local educational needs and concerns shall serve as the basis for future reorganization of districts in each county." The County Committee clearly considered substantial evidence to support its decision to deny the territory transfer proposal.

Further, approval of any school district reorganization proposal by a county committee (or the SBE) is a discretionary action. Even if the County Committee had determined that all required conditions of *EC* Section 35753 were substantially met, the County Committee was under no obligation to approve the transfer and would have needed to identify "local educational needs or concerns" as rationale for approval of the proposal. The CDE also finds no "local educational needs" to serve as compelling reasons for recommending approval of the appeal.

Finally, it is the CDE's view that "setting a precedent" is an appropriate local concern that could have been used to justify disapproval of the territory transfer.

RECOMMENDATION

The CDE recommends that the SBE deny the appeal and affirm the decision of the County Committee based on determinations that (1) the County Committee acted appropriately in denying the proposal, (2) the County Committee identified local educational concerns sufficient to justify disapproval of the petition even if all nine conditions of *EC* Section 35753(a) are substantially, and (3) there are no compelling "local educational needs" to justify approval of the territory transfer.

BRIEF HISTORY OF KEY ISSUES

The *EC* establishes a process through which school districts, voters, or other interested parties may initiate a proposal to transfer territory from one school district to another. In each county is a county committee on school district organization (county committee). The county committee has responsibility for considering and subsequently approving or disapproving the territory transfer proposal. Under conditions outlined in *EC* Section 35710.5, an action of a county committee may be appealed by an affected school district or the identified representatives of a voter signed petition. The SBE has received 32 appeals from actions of a county committee over the past 10 years.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has not heard this item previously.

FISCAL ANALYSIS (AS APPROPRIATE)

If the territory is transferred, there would be no significant financial effects on either affected school district. Approval of the appeal would trigger a local election and subsequent costs.

ATTACHMENT(S)

Attachment 1: Analysis of Statement of Reasons and Factual Evidence (17 pages)

Attachment 2: Petition to Change School District Border for Ward Way and Greenway Drive in Woodside to Las Lomitas School District, June 5, 2009 (3 pages)

Attachment 3: Woodside Heights Appeal for School Boundary Change, December 7, 2009 (9 pages)

Attachment 4: City and School District Boundaries Near Transfer Area (1 page)

Attachment 5: San Mateo County Committee on School District Organization, Public Hearing Minutes, September 29, 2009 (11 pages)

Attachment 6: San Mateo County Committee on School District Organization, Public Hearing Minutes, October 6, 2009 (14 pages)

Attachment 7: San Mateo County Committee on School District Organization, Minutes of Meeting of November 17, 2009 (11 pages)

Attachment 8: Governing Board, Las Lomitas School District, 7/151998, Agenda Number 11.C (1 page)

Attachment 9: School Districts and Schools Near Area Proposed for Transfer (1 page)

Attachment 10: *Education Code* Sections Cited in Agenda Item (3 pages)

ANALYSIS OF STATEMENT OF REASONS AND FACTUAL EVIDENCE

Appeal of a Decision of the San Mateo County Committee on School District Organization to Disapprove a Transfer of Territory from the Redwood City School District to the Las Lomitas School District in San Mateo County

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1.0 RECOMMENDATION

The California Department of Education (CDE) recommends that the California State Board of Education (SBE) deny the appeal and affirm the decision of the County Committee based on determinations that (1) the County Committee acted appropriately in denying the proposal, (2) the County Committee identified local educational concerns sufficient to justify disapproval of the petition even if all nine conditions of *EC* Section 35753(a) are substantially, and (3) there are no compelling "local educational needs" to justify approval of the territory transfer.

2.0 BACKGROUND

The San Mateo County Committee on School District Organization (County Committee) received a petition (Attachment 2) to transfer 43 homes from the Redwood City School District (SD) to the Las Lomitas SD. At the time the petition was submitted, no students from the area attended a public school—all were enrolled in private schools in the city of Menlo Park.

3.0 ACTION OF THE COUNTY COMMITTEE

The County Committee held two public hearings for the proposed transfer of territory—September 29, 2009, in the Las Lomitas SD and October 6, 2009, in the Redwood City SD. Minutes of these public hearings are included as Attachments 5 and 6. The County Committee considered information from the San Mateo County Superintendent of Schools (Superintendent of Schools), along with presentations by the affected districts and the petitioners, at a special meeting held on November 17, 2009 (Attachment 7). The governing board of the Redwood City SD opposed the proposed transfer of territory while the Las Lomitas SD board had not taken a formal position.

Under the California *Education Code* (*EC)*, the County Committee had the following options:

- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are substantially met, it could approve the petition (though not required to do so), and would notify the Superintendent of Schools to call an election on the proposed transfer (an election is required when an affected district opposes an approved transfer of territory petition).

- The County Committee could disapprove the petition to transfer territory for other concerns even if it finds that all nine conditions of *EC* Section 35753(a) have been met.

- If the County Committee determined that all nine conditions of *EC* Section 35753(a) are not substantially met, it would be required to disapprove the petition to transfer territory.

The County Committee failed to find all nine *EC* Section 35753(a) conditions substantially met—the following three required conditions did not receive sufficient support from the County Committee (Attachment 6):

- Condition 6: The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization (4 Yes votes, 4 No votes).

- Condition 7: Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization (2 Yes votes, 5 No votes, 1 Abstention).

- Condition 9: The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization (4 Yes votes, 4 No votes).

The County Committee then voted 5 to 2 (with one abstention) to disapprove the proposal.

Chief petitioners or affected school districts may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, 35710, and 35753(a). The chief petitioners (appellants) submitted such an appeal (Attachment 3) to the San Mateo County Superintendent of Schools (County Superintendent). The County Superintendent subsequently transmitted the appeal, along with the complete administrative record of the County Committee action, to the SBE.

4.0 POSITIONS OF AFFECTED SCHOOL DISTRICTS

The governing board of the Redwood City SD opposes the proposed transfer of territory while the Las Lomitas SD board has not taken a formal position.

4.1 Redwood City SD

At public hearings for the proposal, staff and legal counsel for the Redwood City SD provided the following reasons (among others) for district opposition to the transfer (Attachments 5 and 6):

- The proposal fails to substantially meet the *EC* 35753 conditions because it (1) promotes racial and socioeconomic segregation and (2) encourages other predominantly white and wealthy neighborhoods to transfer out of Redwood City SD.

- The petition fails to set forth an adequate rationale for changing existing boundaries.

- Schools in both districts are equidistant from the proposed transfer area.

- The issue of safety along Alameda de las Pulgas could be remedied with signs, signals, and crosswalks.

- Approval of the petition will create a precedent to transfer future territory along the boundaries of the Redwood City SD.

- While small transfers of territory rarely have significant negative effects on a district, the County Committee should consider the cumulative effects of such transfers. There have been nine previous petitions since 1974 to transfer territory out of the Redwood City SD.

- The 1999 Stockbridge petition remedied a unique misunderstanding and does not set a precedent for the current proposal.

- The transfer would (1) reduce the number of white students within the boundaries of the Redwood City SD, (2) create boundaries that racially isolate its students, and (3) lessen the ability to provide students an integrated environment.

- The transfer would disrupt the educational program of the district by exacerbating the problem of educating students in a racially isolated environment, compounded if other neighborhoods bordering wealthier districts were encouraged to transfer.

- If the transfer were approved, the property values of the petitioners would increase 15 to 20 percent or $150,000 per bedroom.

- Very few of the homes in the transfer area have school age children.

- The $94,000 in lost property tax to the district would increase costs to the state, which must backfill revenue limit funding.

- Tax assessment in the transfer area for district General Obligation Bonds is $10,000 annually—this amount will be redistributed to other property owners in the district.

- The district believes the transfer will have an adverse effect on its fiscal status.

4.2 Las Lomitas SD

Although the governing board of the Las Lomitas SD has not taken a formal position of the territory transfer, the superintendent of the district made the following observations during the public hearings (Attachments 5 and 6):

- Although petitioners claim to be part of the Woodside Heights neighborhood, public records indicate that they are not in the Woodside Heights tract. Further, although the homes in the Stockbridge Territory Transfer are members of the Woodside Heights Association, the houses in the proposed transfer area are not.

- Appellants claim that they want to transfer into Las Lomitas SD because their children have formed friendships with other Las Lomitas SD students through extracurricular activities. However, these extracurricular leagues do not follow any district boundaries.

- Traffic realities on Woodside Road and Alameda de las Pulgas have not changed substantially in the recent past. Thus, there is no unfair surprise to petitioners, who bought homes on a *cul de sac* off Alameda de las Pulgas, that it is difficult to make a left turn onto the street. Residents can turn right onto Alameda de las Pulgas, and then left on Stockbridge to attend Redwood City SD schools.

- It would be difficult to establish a Las Lomitas SD bus stop on Alameda de las Pulgas. School bus stops, which legally require traffic in both directions to stop, would cause a huge traffic problem on this street.

- Only a few school age children live in the area proposed for transfer—thus, the vast majority of the petition signers have an increase in property values as a significant or primary motivation.

- The district would receive a negative hit of $112,000 if it received 15 students from the area. The hit would be greater if there were any special needs students.

- The elementary school in the district already has too many students—major housing construction is anticipated.

5.0 REASONS FOR THE APPEAL

The appellants contend (Attachment 2) that County Committee "abused its discretion by denying the petition for the transfer without substantial evidence in the record." Appellants further claim that the County Committee disapproved the proposal primarily because of the concern that approval of the transfer would set a "precedent" that would encourage future transfers from the Redwood City SD. The appellants disagree with this concern, believing that approval of their transfer actually would settle the "boundary conflict" by unifying the neighborhood and establishing the boundary along "natural and municipal barriers."

Appellants also contend that their homes already should have been transferred to the Las Lomitas SD. Neighboring homes immediately southeast of the proposed transfer area were transferred from the Redwood City SD to the Las Lomitas SD by the County Committee in 2000 following that territory's annexation into the city of Woodside (it previously was unincorporated territory). The proposed transfer area was similarly annexed into the city of Woodside in 2003. Appellants believe that their homes would have been transferred into Las Lomitas SD with their neighbors' homes if they had been part of the city of Woodside prior to 2000.

The appellants assert the following in support of the appeal (Attachment 3):

- The County Committee disapproved the proposed territory transfer without evidentiary support in the record.

- The County Committee did not give impartial consideration to the proposal and denied the territory transfer primarily because of a concern that it would set a precedent for a "domino effect" of further transfer requests from the Redwood City SD.

- Homes in the transfer area would have become part of the Las Lomitas SD with the Stockbridge transfer if they had been part of the city of Woodside prior to 2000.

- Although the County Committee did determine that affected school districts would remain organized on the basis of a substantial community identity if the proposed transfer of territory was approved, appellants believe that the issue of commute safety was incorrectly considered during consideration of this condition. Appellants contend that student commutes to schools in Las Lomitas SD would be considerably safer than commutes to schools in Redwood City SD.

- Appellants contend that the territory transfer would have no substantial negative effect on educational programs since no students from the area currently attend any public school.

- Appellants believe that the transfer of five to six students into the Las Lomitas SD would not significant increase school housing costs for the district.

- Appellants state that the transfer of no students and 43 homes (with corresponding tax revenue) would not have a significant negative effect on the fiscal status of either affected district.

6.0 CALIFORNIA DEPARTMENT OF EDUCATION RESPONSE TO THE APPEAL

Chief petitioners or affected school districts, pursuant to *EC* Section 35710.5, may appeal a County Committee decision on territory transfers for issues of noncompliance with the provisions of *EC* sections 35705, 35706, 35709, and 35710. The courts (*San Rafael School District v. State Board of Education* [1999] 73 Cal.App.4th 1018, 1027)) also have determined that provisions of *EC* Section 35753 are subject to review in any territory transfer appeal.

CDE staff review of the issues in the appeal follows.

6.1 The County Committee disapproved the petition without evidentiary support in the record.

The CDE agrees with the appellants' concerns that it is "difficult to discern the specific reasons" for the County Committee disapproval of the territory transfer proposal. Information provided in the administrative record submitted by the County Superintendent (including minutes of the meetings) provides little insight into the reasoning behind the actions taken by the County Committee on the conditions of *EC* Section 35753 or the disapproval, and there is no formal report prepared by the County Superintendent with specific recommendations to which the County Committee could respond.

However, the CDE finds that the County Committee did consider substantial evidence before taking its actions. The administrative record contains significant documentation of evidence presented during the course of the public hearings (Attachments 5 and 6) and deliberations (Attachment 7) of the County Committee. Therefore, CDE staff does not support this assertion of the appellants.

6.2 Disapproval of the petition was because of a concern for setting a precedent that would encourage further transfer requests from the Redwood City SD.

It is the opinion of the appellants (Attachment 3) that the County Committee disapproved the territory transfer primarily because of a concern that approval would set a precedent for a "domino effect" of further transfer requests from the Redwood City SD. The County Committee clearly did give significant consideration to the issue of "setting

precedent" or, stated differently, contemplation of the cumulative effects of potential future territory transfer. However, it is not clear from the administrative record that any action of the County Committee (either on *EC* Section 35753 conditions or disapproval of the petition) was based primarily, or even in part, on concerns for setting a precedent.

However, focusing solely on the claims of the appellants that the County Committee disapproved the territory transfer primarily because of a concern that approval would set a precedent, the CDE notes that there is nothing that prohibits the County Committee from using the issue of "setting precedent" to guide its decisions on territory transfer petitions. The conditions of *EC* Section 35753 are minimum threshold requirements (*Hamilton v. State Board of Education* [1981] 117 Cal.App.3d; 172 Cal.Rprt. 748) and the County Committee has discretionary authority to approve or disapprove a territory transfer proposal only after those requirements are met.

Again, it is not clear from the administrative record whether the County Committee entertained concerns of "setting precedent" when making its decisions. However, it is the experience of CDE staff that the Redwood City SD exemplifies the conditions of other school districts that are faced with prospects of numerous potential requests to remove territory. Redwood City SD is a revenue limit district bordering numerous basic aid districts—typically, districts with higher levels of funding and students from higher socio-economic backgrounds. See the following tables for comparisons on a number of factors of the Redwood City SD with its bordering districts.

2009-10 Financial Information for Select San Mateo County Districts

District	ADA*	Expenditures per ADA*	Revenue per ADA*	Basic Aid?**
Redwood City SD	8,620	$9,097	$8,678	No
Las Lomitas SD	1,200	$13,413	$14,715	Yes
Menlo Park City SD	2,436	$11,283	$10,441	Yes
Woodside SD	423	$20,211	$18,894	Yes

* Source: Educational Data Partnership
** Source: California Department of Education, School Fiscal Services Division

As can be determined from information in the previous table, the average of expenditures for the three basic aid districts ($12,843) is more than 40 percent greater than the expenditures per ADA for the Redwood City SD ($9,097).

2009-10 Socio-economic Data for Select San Mateo County Districts

District	Percent ELL*	Percent in FRPM** Program	Percent in Compensatory Education*
Redwood City SD	50.4	62.9	74.3
Las Lomitas SD	5.8	2.5	5.2
Menlo Park City SD	8.1	4.2	2.7
Woodside SD	3.3	7.0	0.0

Source: Educational Data Partnership
* English Language Learners
** Free/Reduced Price Meal
***Percent of students participating in the federal Title I and/or the state Economic Impact Aid/State Compensatory Education (EIA/SCE) program.

As can be seen in the above table, the Redwood City SD student population is comprised of a significantly greater percentage of students who are English language learners, participate in the Free/Reduced Price Meal Program, and receive compensatory educational services.

2009-10 Race/Ethnicity Data for Select San Mateo County Districts

District	Percent Asian	Percent Hispanic	Percent White
Redwood City SD	2.6	70.4	21.3
Las Lomitas SD	14.3	9.8	70.5
Menlo Park City SD	6.4	12.4	66.9
Woodside SD	3.9	9.8	78.4

Source: Educational Data Partnership

The above table compares the three largest ethnic groups of the Redwood City SD with its neighboring districts. The Redwood City SD has a significantly greater percentage of minority students.

In addition to the conditions described in the above tables, there exists a history of requests to transfer territory out of the Redwood City SD; staff from the Redwood City SD testified before the County Committee (Attachment 7) that there have been nine petitions to transfer territory from the district since 1974.

Although the County Committee did express concerns that cumulative effects of potential territory transfers should be taken into account when judging an individual transfer request, it is unclear that the County Committee made any decisions regarding the proposed transfer of

territory because of a concern that approval would set a precedent. However, the CDE finds that considerable evidence exists for the County Committee to have used precedent as a rationale for denying the proposal even if it had found that all nine conditions of *EC* 35753 were substantially met. The CDE further considers the use of precedent to be a legitimate "local concern" to deny the territory transfer proposal and does not share the appellants' concern that precedent was an inappropriate reason to deny the proposal.

6.3 The territory of the proposed transfer area should have transferred to Las Lomitas SD with the Stockbridge Avenue transfer in 2000

On July 1, 2000, the homes adjacent to the southeast boundary of the transfer were transferred from the Redwood City SD to the Las Lomitas SD. These homes on Stockbridge Avenue were part of the town of Woodside at the time, while the current proposed transfer area was unincorporated territory. In April of 2003, the appellants' homes also were annexed into the town of Woodside—the appellants contend that their homes would have been transferred in 2000, along with Stockbridge Avenue, if they had been part of the town of Woodside at that time.

Review of materials in the administrative record reveals that the transfer of the Stockbridge Avenue homes in 2000 was not directly related to the annexation of these homes into the town of Woodside (see Attachment 8). At this time, Stockbridge Avenue served as the boundary between the Redwood City SD and the Las Lomitas SD. Students residing in even-numbered homes (those on the north side of Stockbridge) were in the Redwood City SD, while students in odd-numbered residences (those on the south side of Stockbridge) were in the Las Lomitas SD. However, for reasons unknown, all affected parties assumed that students on both sides of Stockbridge Avenue were in the Las Lomitas SD—this misunderstanding persisted for well over 20 years.

Once the error was identified, the Redwood City SD and the Las Lomitas SD allowed all students to continue attending the Las Lomitas SD through approved inter-district attendance agreements. The transfer of the Stockbridge Avenue territory, initiated in 1998 and completed in 2000, was in response to the more than 20 years that students who lived across the street from one another had been attending schools together. The transfer was not initiated, nor approved, because the Stockbridge Avenue neighborhood had been annexed into the town of Woodside.

The CDE does not agree with the appellants' contention that the territory proposed for transfer should have been transferred to the Las Lomitas SD in 2000.

6.4 *EC* Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.

Appellants contend that the County Committee, although it found that the territory transfer substantially met this condition, incorrectly considered criteria relevant to the "commute safety" of their students. Appellants claim that the commute from the area proposed for transfer to any school in Redwood City SD is more dangerous than the commutes to the elementary school and single middle school of Las Lomitas SD. However, other than citing an incident (that occurred 40 years ago) of a student being hit by a car while on the way to a Redwood City SD school, the appellants provide no documentation of their claim either in their appeal or at the public hearings (moreover, the issue of commute safety was not part of the original petition to transfer territory [Attachment 2]). It also is unclear to CDE staff what the appellants specific concerns are when they claim that the County Committee did not correctly consider commute safety in its consideration of this community identity condition. The County Committee considered all testimony presented by the appellants and school districts regarding commute safety (among other community identity factors) and then voted that the proposed territory transfer substantially met the community identity condition—an action desired by the appellants.

Regardless, the CDE considers the following specific claims made by appellants regarding commute safety:

- *Schools in the Las Lomitas SD are closer to the transfer area*. The map in Attachment 9 depicts the relative location and distance of all schools (in the affected districts) within a two mile radius of the transfer area. The three closest Redwood City SD elementary schools are 1.0 miles (Ford), 1.3 miles (Adelante), and 2.0 miles (Roosevelt) away. The Kennedy Middle School is 1.5 miles from the transfer area, while the Selby Lane School (a K-8) school) is 1.4 miles away.

  For the Las Lomitas SD, the Las Lomitas Elementary School (K-3) is 0.8 miles from the transfer area, while the La Entrada Middle School (4-8) is 2.0 miles away.

  All students in the transfer area, regardless of grade level, can potentially attend schools in the Redwood City SD that are within 1.5 miles of their homes. If the students were in the Las Lomitas SD, they would attend school for the first four grades at a school 0.8 miles away, while travelling two miles for the final five grade levels—thus, the school serving the majority of grade levels for students in the area would be two miles away.

It does not appear to CDE that the appellants claim that Las Lomitas SD schools are closer is valid. Moreover, appellants have chosen to enroll their students in private schools that are considerably farther from the transfer area (2.7 to 3.6 miles) than are the Redwood City SD schools.

- *Students from the petition area would have to make a left hand turn across Alameda de las Pulgas (a very busy street), pass Woodside High School, and cross Woodside Road (another high traffic street) to attend schools in Redwood City SD.* This is an accurate statement for all schools except Selby Lane School in Redwood City SD. Although attending Selby Lane does require crossing Alameda de las Pulgas, there is no requirement to pass Woodside High School or Woodside Road.

  If students were in the Las Lomitas SD, they similarly would have to cross Alameda de las Pulgas to attend Los Lomitas Elementary School. Students also are on the opposite side of Alameda de las Pulgas from any of the private schools in which they were enrolled at the time the territory transfer petition was considered. In fact, half of these students were enrolled in the Nativity Catholic School (over 3.5 miles away in Menlo Park), which required students in the petition area to cross a second street with a high volume of traffic (El Camino Real).

The Las Lomitas SD currently provides bus transportation to schools with a bus stop that is two blocks from the proposed transfer area, while the Redwood City SD provides bus transportation only for special education students. However, as acknowledged by both the appellants and the Las Lomitas SD, the future of the Las Lomitas SD bus transportation program is uncertain due to ongoing state budget problems.

It is the opinion of the CDE that the County Committee appropriately considered the above factors in its deliberations on the community identity condition. The commute safety arguments presented by the appellants do not detract from a finding that the affected districts would be organized on the basis of substantial community identity whether or not the territory transfer is approved.

If it is the intent of the appellants that commute safety is a compelling reason to transfer the territory, CDE staff disagrees. Other than citing certain concerns (distance from schools and the crossing of busy streets), the appellants provide no factual documentation of safety issues. Moreover, the appellants have taken actions (attending more distant private schools) that exacerbate the safety concerns they list. The CDE also notes that the petition signed by voters does not include commute safety as reason for requesting the territory transfer (Attachment 2).

The districts contend that the issue of safety along Alameda de las Pulgas could be remedied with signs, signals, and crosswalks. Additionally, no student in the transfer area has requested an inter-district transfer out of the Redwood City SD. Although the CDE understands that such transfers into the Las Lomitas SD are rarely approved (partly due to the population growth in Las Lomitas schools), there exists an appeal process to the San Mateo County Board of Education when inter-district transfers are denied. None of these alternative remedies have been explored by the appellants.

6.5 *EC* Section 35753(a)(6): The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

The County Committee (on a 4 to 4 vote) failed to find that the territory transfer substantially met the educational performance condition. Appellants disagree with this outcome.

The CDE finds that available evidence does not support a finding that the Redwood City SD's educational programs would be negatively affected when it doesn't lose any students or related revenue limit funding. The Las Lomitas SD could see the following estimated effects (assuming eight new students):

- $13,684 annual increase in parcel tax revenue.
- $94,000 annual increase in property tax revenue.
- $107,304 annual increase in expenditures (for eight students).

With eight students across nine grade levels and revenue increases approximately equal to expenditure increases, the educational programs of the Las Lomitas SD should not be significantly disrupted if the proposed transfer of territory is approved.

6.6 *EC* Section 35753(a)(7): Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

The County Committee (on a 2 to 5 vote, with one abstention) failed to find that the territory transfer substantially met the facilities costs condition. Appellants disagree with this outcome.

The CDE finds that, although enrollment is steadily growing in the Las Lomitas SD, any potential increase in costs for the Las Lomitas SD to house eight students across nine grade levels will be insignificant.

6.7 *EC* Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

The County Committee (on a 4 to 4 vote) failed to find that the territory transfer substantially met the fiscal status condition. Appellants disagree with this outcome.

Potential fiscal effects to the affected school districts if the transfer of territory is approved are documented above in Section 6.5. The CDE finds that these will not cause a negative substantial effect on the fiscal status of either district.

Moreover, both districts currently are fiscally healthy—the County Superintendent examined the 2010-11 Second Interim Financial Reports for both districts and concurs with the positive certification finding contained in those reports.

6.8 Summary

CDE staff finds no support for the appellants' claim that the County Committee denied the territory transfer petition without sufficient evidence in the record. Although the administrative record contains little insight into the reasoning behind the actions taken by the County Committee on the conditions of *EC* Section 35753 or its ultimate disapproval of the territory transfer proposal, it is clear that the County Committee did consider substantial evidence before taking its actions—evidence that is documented in the administrative record.

The CDE disagrees with the County Committee's findings that three of the nine conditions of *EC* Section 35753 are not substantially met—CDE finds that all nine of these threshold conditions are substantially met by the proposed territory transfer. Given the considerable interest and discussion around the issue that the County Committee would set a precedent by approving the petition, it is conceivable that the County Committee took the "setting precedent" issue into consideration when it considered the educational programs, facilities costs, and fiscal status conditions. There is nothing that prohibits the County Committee from using the issue of "setting precedent" to guide its decisions on territory transfer petitions.

The CDE does find that that the Redwood City SD exemplifies the conditions of other school districts that are faced with prospects of numerous potential requests to remove territory. The district is a revenue limit district bordering numerous basic aid districts—typically, districts with higher levels of funding and students from higher socio-economic backgrounds. Moreover, there has been a history of requests to transfer territory from the Redwood City SD.

It is the CDE's opinion that "setting precedent" is an appropriate reason for the County Committee to disapprove the territory transfer petition. *EC* Section 35753 conditions are minimum threshold requirements and the County Committee has discretionary authority to approve or disapprove a territory transfer proposal. The County Committee, as well as the SBE, is obligated (pursuant to *EC* Section 3550) to consider "local educational needs and concerns" when considering reorganizations of school districts. Based on the concerns and information contained in the administrative record (as well as data contained in section 6.2), it is clear to the CDE that the issue of setting precedent, as it relates to approving requests to transfer territory from the Redwood City SD, is a local concern.

The CDE bases its recommendation to deny the appeal and uphold the County Committee's decision to disapprove the territory transfer petition on the following determinations:

- The County Committee complied with all requirements for public hearings and consideration of information regarding the proposed transfer of territory.

- Although the CDE disagrees with the County Committee's findings that three of the nine conditions of *EC* Section 35753 are not substantially met, there exist local concerns (promoting future transfers from the Redwood City SD) to justify disapproval of the territory transfer proposal.

- There are no reasons to approve the territory transfer that are compelling enough to overturn the local disapproval by the County Committee.

7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION

If the SBE approves the appeal (thus, reversing the County Committee's action to deny the territory transfer), it has authority to amend or add certain provisions to the territory transfer proposal. One of the provisions the SBE must add, if it reverses the action of the County Committee by approving the appeal, is the area of election.

7.1 Area of Election

Determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with Section 35730) that the SBE may add or amend. *EC* Section 35710.5(c) also indicates that, following the review of an appeal, if the petition will be sent to an election, the SBE must determine the area of election.

The plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required (*EC* Section 35732). If a plan does not specify the area of election, the statute specifies that "the election shall be held only in the territory proposed for reorganization." Thus, the area proposed for reorganization is the "default" election area. The SBE may alter this area, but the alterations must comply with the "Area of Election Legal Principles" below. In this case, the County Committee disapproved the territory transfer, and the chief petitioners appealed the County Committee's decision. Therefore, following review of the appeal, if the petition will be sent to election, the SBE must, pursuant to *EC* Section 35756, determine the territory in which the election will be held.

7.2 Area of Election Principles

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992) 3 Cal. 4th 903 (the *"LAFCO"* decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the "default" area), provided there is a *rational basis* for doing so. *LAFCO* requires we examine (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates (in this situation, the analysis examines the interests of voters in the territory to be transferred from the Redwood City SD, those that will remain in the Redwood City SD, and those in the district that would receive the territory—the Las Lomitas SD). The proposed transfer, in the opinion of the CDE, does not reflect any genuinely different interests between voters in the transfer area and voters in either of the affected school districts.

A reduced voting area has a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewide in a manner that allows for planned, orderly, community-based school systems that adequately address transportation, curriculum, faculty, and administration.

Finally, discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO,* the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton Joint Union High School District v. State Board of Education* [1982] 32 Cal. 3d 779 [*Fullerton*]). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter, no discrimination, segregation, or racial impacts were identified. Accordingly, the *LAFCO* standard and analysis applies.

7.3 Recommended Area of Election

CDE staff finds that the transfer of territory would have no significant effect on the voters in either the remaining Redwood City SD or the receiving Las Lomitas SD. Therefore, if the SBE reverses the action of the County Committee, the CDE recommends the SBE establish the 43 homes in the area proposed for transfer as the area of election.

8.0 STATE BOARD OF EDUCATION OPTIONS

The SBE has two general options to deny the appeal (thus, upholding the County Committee action) and two options to approve the appeal (thus, overturning the County Committee action).

To deny the appeal, the SBE may either:

- Determine that the proposed transfer of territory fails to substantially meet all nine conditions of *EC* Section 35753(a) and deny the appeal, which affirms the County Committee's decision to disapprove the transfer; or

- Determine that the proposed transfer of territory substantially meets all nine conditions of *EC* Section 35753(a) and deny the appeal on other grounds (e.g., there is no compelling reason to overturn the County Committee decision).

To approve the appeal, the SBE may either:

- Determine that the proposed transfer of territory substantially meets all nine conditions of *EC* Section 35753(a), approve the appeal, and reverse the County Committee's decision to disapprove the transfer. Under this option the SBE must determine the election area for the reorganization; or

- Determine that the proposed transfer of territory fails to substantially meet all nine conditions of *EC* Section 35753(a); determine that it is not practical or possible to apply these conditions literally and that the circumstances with respect to the petition provide an exceptional situation sufficient to justify approval; and, reverse the County Committee's decision to disapprove the transfer. Under this option, the SBE also must determine the election area for the reorganization.

9.0 RECOMMENDED ACTION

The CDE recommends that the SBE deny the appeal and affirm the decision of the County Committee based on determinations that (1) the County Committee acted appropriately in denying the proposal, (2) the County Committee identified local educational concerns sufficient to justify disapproval of the petition even if all nine conditions of *EC* Section 35753(a) are substantially, and (3) there are no compelling “local educational needs” to justify approval of the territory transfer.

Petition to Change School District Border for Ward Way and Greenway Drive in Woodside to Las Lomitas School District.

June 5, 2009

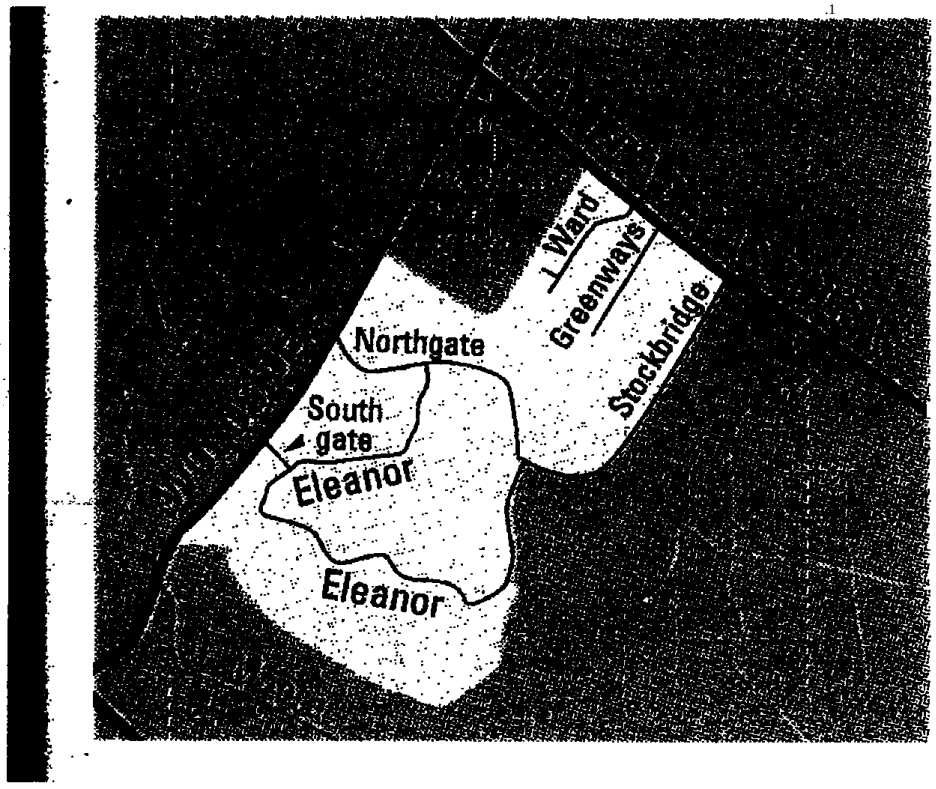
Category: Education & School District Borders

Region: Ward Way and Greenways Drive Woodside, California

Target: Las Lomitas School District, Redwood City School District and the County of San Mateo

Chief Petitioner: George Mallinckrodt

Backgrouond:
Our homes are in Woodside, specifically the Woodside Heights neighborhood within Woodside. Our entire neighborhood (south west of Woodside High School) is located in the Las Lomitas School district except for our two streets, Ward Way and Greenways Drive and the 5 parcels on Alameda de las Pulgas which front our two streets. Ward Way has 18 homes on it and Greenways Drive has 20. Please see the map of our neighborhood and below it the map of the Redwood City School District as a whole.



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Superintendent of Schools
San Mateo County

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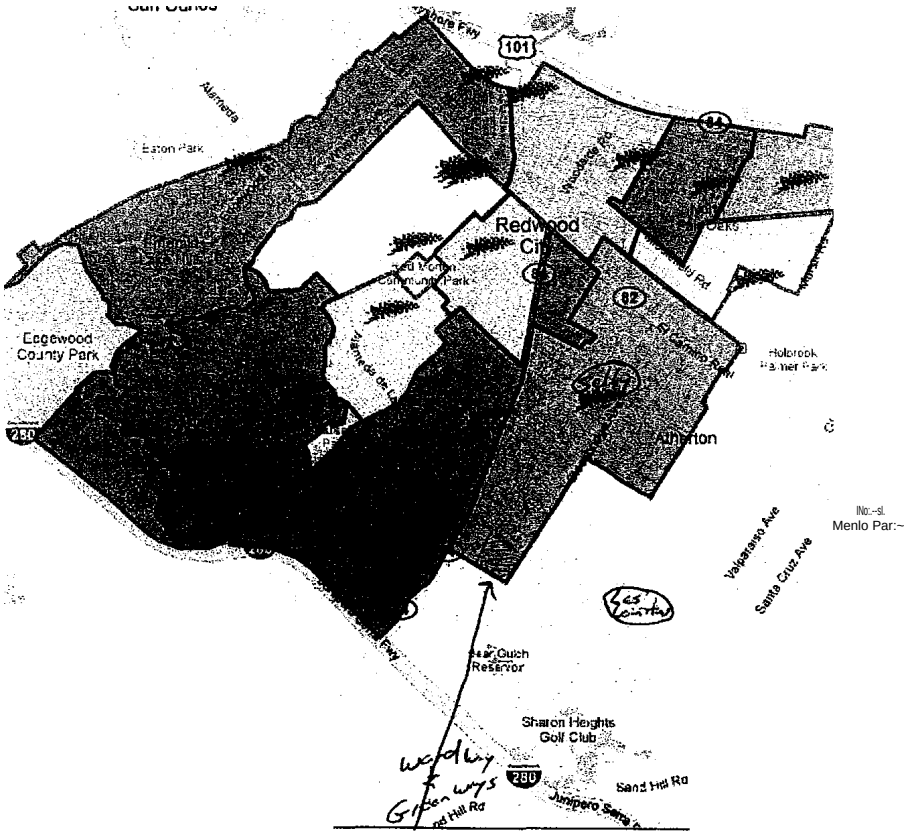

As you can see from the map above, Ward Way and Greenways are surrounded by neighbors attending the Las Lomitas School District. To the south is Stockbridge which was recently transferred into the Las Lomitas School District. To the West is Northgate and Eleanor which have traditionally been in the Las Lomitas School District. To the North is Woodside High School a natural border and the East is Alameda de Las Pulgas, another natural border.

Petition:
The purpose of this petition is to redistrict Ward Way, Greenways Drive and the 5 parcels along Alameda de las Pulgas in Woodside to the Las Lomitas School District. 43 parcel total.

Rationale:
Our community identity is better preserved by having the *entire* neighborhood -- versus just 99% of the neighborhood -- in the *same* school district.

Our children should have the same opportunity to go to school with their friends and neighbors, thereby keeping the community whole.

Furthermore, Las Lomitas is the closest school to our neighborhood, being less than a mile away. The Las Lomitas school bus passes our streets daily and often parks in the two Bus Zones along Alameda de las Puglas between Ward Way and Greenways Drive.

The Woodside Heights neighborhood is a close-knit neighborhood with our kids playing on the same sports teams and being part of the same organizations like Boy Scouts and Girl Scouts of America or 4H and attending the same churches. We participate in the Town governance and would like our kids to also have the opportunity to go to school together with their friends, teammates, and neighbors.

Signatures:

By signing the petition, you are supporting the recommendation to have Ward Way and Greenways Drive re-districted into the Las Lomitas School District, thus joining the rest of Woodside Heights in the same school district.

Woodside Heights Appeal for School Boundary Change, December 7, 2009

Date: December 7, 2009

To: San Mateo County Committee on School District Organization
Attn: Peter Burchyns, Special Advisor to the Board and Superintendent
From: George Mallinckrodt, Chief Petitioner
Subject: Argument in Support of Appeal- Woodside Heights Petition

Argument in Support of Appeal:

In the Matter of the Petition to Transfer Territory Consisting of the 43 homes in Woodside Heights, Woodside from the Redwood City School District to the Las Lomitas Elementary School District.

Woodside Heights Petition
On August 4, 2009, a Petition was filed with the County Superintendent of Schools of San Mateo County to transfer 43 homes on Ward Way and Greenways Drive including five homes located on Alameda De Las Pulgas in the City of Woodside from the Redwood City School District to the Las Lomitas Elementary School District.

The Petition set forth the legal description and provides a parcel map and parcel number listing for the properties seeking redistricting and a synopsis of the facts and the Petitioners' positions with respect to the criteria set forth in Education Code Section 35753.

The Redwood City School District is against the Petition and the Los Lomitas School District position on the Petition is unannounced or undecided at the time of this appeal.

County Committee on School District Reorganization Findings
On November 17, 2009, the San Mateo County Committee on School District Organization voted on the nine conditions found in Education Code Section 35753. The results of the County's Committee's findings were that:

- 6 of the criteria were substantially met.
- 1 of the criteria was not met
- 2 of the criteria resulted in tied vote (4 yes & 4 no votes) and thus didn't pass by a majority.

The details of the findings are as follows:

Condition 1: The reorganized districts will be adequate in terms of number of pupils enrolled.
Motion Passed Yes - 7, *No - 0, Abstain* - 1

Condition 2: The districts are each organized on the basis of a substantial community identity.
Motion Passed Yes - 5, *No* - 3, *Abstain - 0*

Woodside Heights Appeal for School Boundary Change, December 7, 2009

Condition 3: The proposal will result in an equitable division of property and facilities of the original district or districts.
Motion Passed Yes - 7, *No* - *0*, *Abstain* - 1

Condition 4: The reorganization of the districts will preserve each affected. district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.
Motion Passed Yes - 6, *No* -1, *Abstain* - 1

Condition 5: Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.
Motion Passed Yes - 5, *No* - 3, *Abstain* - *0*

Condition 6: The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
Motion failed to gain majority Yes - 4, *No* - 4, *Abstain* - *0*

Condition 7: Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization. *Motion failed Yes* - 2, *No* - 5, *Abstain* - 1

Condition 8: The proposed reorganization is primarily designed for purposes other than to significantly increase property values.
Motion Passed Yes - 5, *No* - 3, *Abstain* - *0*

Condition 9: The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.
Motion failed to gain majority Yes - 4, *No* - 4, *Abstain* - *0*

By a vote of 5 to 2 with one Abstaining, the County Committee voted to disapprove the Petition.

On November 21 2009, the Petitioners filed a Notice of Appeal with the County Committee for School District Organization and the County School Superintendent pursuant to the provisions of Section 35710.5 of the California Education Code. This argument is filed by the Petitioners in support of that Appeal.

Back Ground - Current School Age Children
The territory proposed for transfer is comprised of 43 residences on two cuI de sac streets, Ward Way and Greenways, with in the Woodside Heights neighborhood of the Town of Woodside. These 43 homes are only homes in the Woodside Heights neighborhood not in the Las Lomitas School District.

Woodside Heights Appeal for School Boundary Change, December 7, 2009

The Petition area currently has 8 school age children (3 currently in 6th grade, 1 in 5th grade, 1 in 4th grade, 1 in 2nd grade and 2 in 1st grade). None of which are enrolled in the Redwood City School district. All are enrolled in different private schools all in Menlo Park. In the last 34 years only three children have attended the Redwood City School District for a full year or more - two of those only for only one year.

Location of Petition Area

The Petition Area is located in the south/western most part of the Redwood City School District. To the Northeast side is Alameda De Las Pulgas. Alameda De Las Pulgas is the only North/South thoroughfare from Menlo Park to San Carlos located between State Highway 82 (EI Camino Real) and Interstate 280 and as a result is a very heavy traffic area during the commute hours. The only access to the Petition Area is from the Alameda. (Figure 1)

On the northwest side is Woodside High School located in Unincorporated San Mateo County with no neighboring houses next to the petition area.

Neighboring homes in Woodside Heights (figure 2) on the other two sides of the Petition Area to the southwest and to the southeast (Stockbridge Ave) reside in the Las Lomitas School District.

Leaving our two streets as an "island" of the Woodside Heights (figure 2) neighborhood separate from the school district attended by every other neighbor in Woodside Heights, and further isolated by the nature of being two cuI de sac streets with access only from Alameda.

To our knowledge, there does not exist anywhere else in the State of California a situation such as this where a small group of homes is assigned to a different elementary school district than all of the homes that boarder them on two sides with third side having no homes (Woodside High) and being in a different city along with the forth side being a barrier of a high traffic artery and also a different city.

Woodside Heights Appeal for School Boundary Change, December 7, 2009

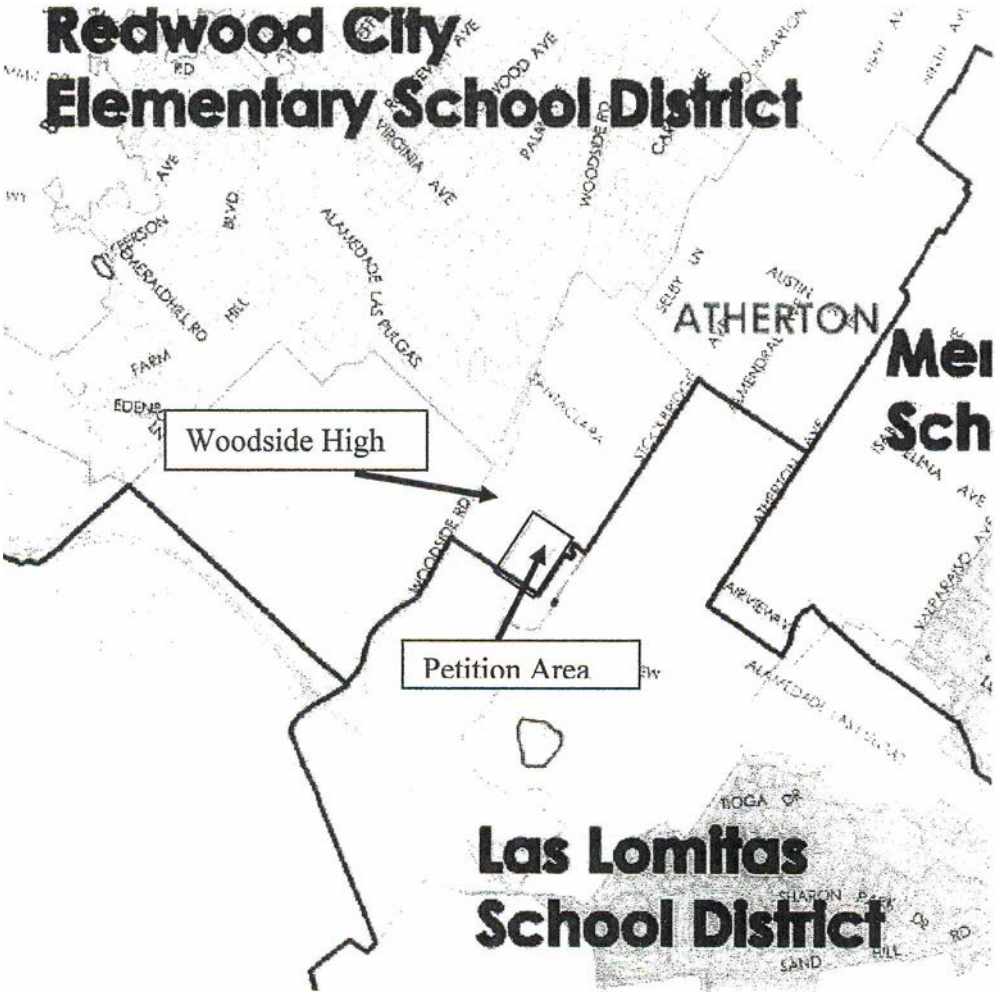

Figure 1

LEGEND:
Petition Area Blue Rectangle
Town of Woodside in Green
Redwood City in Red
Town of Atherton in Pink
Unincorporated San Mateo County in Yellow

Woodside Heights Appeal for School Boundary Change, December 7, 2009

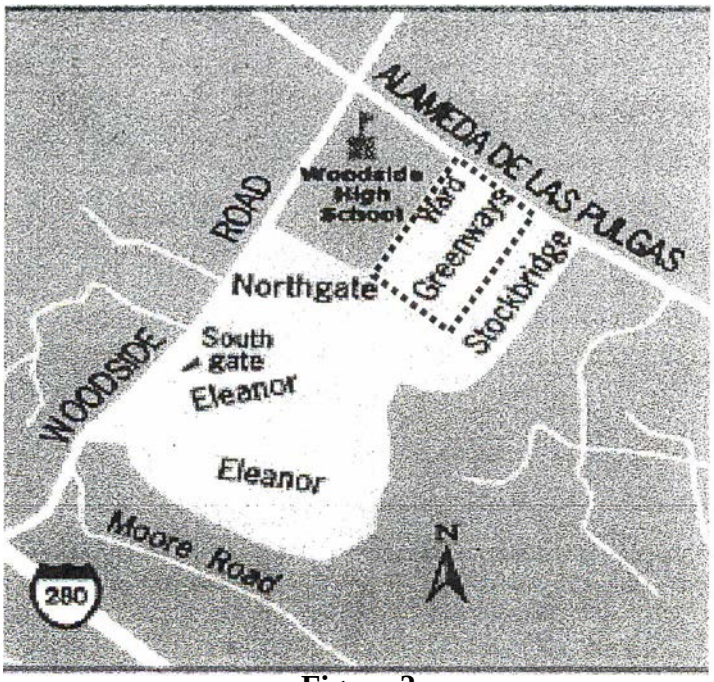

Figure 2

LEGEND:

.... (small red dots) Petition Area

Light Grey - Woodside Heights Neighborhood

History of Redistricting and Annexation of the Area

On July 1, 2000 our fence line neighbors to the southeast on Stockbridge Ave were redistricted into the LLESD by the San Mateo County Office of Education's County Committee on School District Organization who found that those 15 homes in the same Woodside Heights neighborhood met the criteria for community identity and thus granted their petition to move into the LLESD. (Source: Board of Supervisors, County of San Mateo Resolution # 62695).

On April 14, 2003, the Petitioners' homes were annexed into the Town of Woodside. Before the annexation, the Petitioners' homes were part of Unincorporated San Mateo County.

The Town Council of Woodside and the San Mateo County Board of Supervisors found that the Petitioners' homes lay within the Town of Woodside's sphere of influence as designated by the San Mateo County Local Agency Formation Commission.

Additionally, it was decided that the annexation was "consistent with the General Plan of the Town of Woodside and with Section 153.024 of the Municipal Code of the Town of Woodside" .

Woodside Heights Appeal for School Boundary Change. December 7. 2009

We contend that the Petition Area should have been considered in the 2000 Stockbridge Petition and had the Petition Area been annexed into Woodside prior to the Stockbridge redistricting, the Petition Area would have been included **in** the Stockbridge 2000 petition and would have been transferred into the Las Lomitas School District too.

San Mateo County Committee on School District Organization Disapproval .

It is difficult to discern the specific reasons for the disapproval of our petition by the County Committee. It is the position of the Petitioners that the voters of the County Committee are lacking evidentiary support for their actions. The vote of the County Committee denies the Petitioners the equal protection of the law and constitutes arbitrary and capricious action.

The appellants believe the County Committee did not give impartial consideration to their request. Based on the Petitioners' understanding of the action taken by the County Committee, it appears the petition was primarily denied because of fear by the Redwood City School District and the County Committee of setting "precedent" for a potential domino effect. The potential domino effect discussed by the County Committee related to whether or not at some distant time surrounding areas outside of the Woodside Heights neighborhood might be encouraged to petition for redistricting if the Woodside Heights petition was approved.

The appellants believe the granting our petition settles the boundary conflict in that the Petitioners proposed boundary change unifies the neighbor and strengthens the boundary by moving it from neighbors' fences to more natural and municipal barriers like Woodside High School to the north and the Alameda De Las Pulgas to the east both of which are territories of Unincorporated San Mateo County and not part the Woodside Heights neighborhood or even the Town of Woodside.

Future petitions would need to come before the County Committee of District Organization, and they would evaluate each petition on its own merits. Highly speculative considerations should not have been the deciding factor in denying our valid petition. The County Committee's decision was therefore lacking in evidentiary support.

Even though the County Committee found that the Petition Area met the criteria for community identity, the appellants assert the County Committee incorrectly did not take into account criteria from the *California Code of Regulations,* Title 5 (5 *CCR),* Section I 8573(a)(2), which includes criteria that deal with commute safety.

In order to get to the RWCSD, the children of the Petition Area would have to make a left hand turn across commuter traffic on Alameda, pass Woodside High School (enrollment 1935 students) and then cross State Highway 84 (Woodside Road).

During the commute hours especially during the school year traffic in the area is very dangerous. Cars are backed up along Alameda and California State Hwy 84. People are dropping off their kids at Woodside High School or scarier yet newly licensed drivers are headed to school at Woodside High.

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At that time of day, Traffic on California State Hwy 84 at Alameda - Peak Hour - is 3250-3550 cars per hour. (Source: California Department of Transportation, Traffic and Vehicle Data Systems Unit 2008 Survey Results)

The route to the LLESD is much safer than the route to the RWCSD. The Las Lomitas School Bus passes by the Petition area and has a bus stop at the corner of Stockbridge and Alameda. No children would have to make a left turn and cross against traffic to get to school.

Even if bus service were discontinued some time in the future, distance, traffic congestion, presence of major intersections, and interceding state freeways make the commute to any "school of choice" within the Redwood City School District more dangerous.

As an example (traffic has gotten much worse since then), one of children the Petition Area who attended Selby Lane School in RCSD 40 years ago was hit by a car on two separate occasions while on her way to school. Since that event, over the past 40 years, the RCSD has done nothing to mitigate the traffic danger.

The appellants believe the Committee acted with bias and ignored the substantial evidence presented in its decision on the two criteria Condition 6 and Condition 9 in which the Committee was dead locked and on Condition 7 which the Committee voted against.

Condition 6: The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.
Motion failed to gain majority Yes - 4, *No* - 4, *Abstain - 0*

Condition 7: Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization. Motion failed Yes - 2, *No* - 5, *Abstain-1*

Condition 9: The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization. Motion failed to gain majority Yes - 4, *No* ~ 4, *Abstain - 0*

As for Condition 6 & 9, based on the Committees' own minutes, the Committee seemed to have blended these two issues based on financial impact. The Committee's own report dated 11/9/09 titled, "Financial Impact of Proposed Woodside Heights Transfer of Territory" concluded the financial impact to the Redwood City School District was $0 and the Las Lomitas School District would gain $94,000 annually.

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The impact to RCSD is zero since no children currently attend with the district and only 3 students have attended the RCSD in the last 34 years (2 of those for only one year). While one can't predict the future enrollment from the Petition Area, it is clear that historically the Petition Area has been lost to the RCSD for decades.

As for Condition 7: The Committee seemed most concerned about space issues at LLESD. The Las Lomitas School District reports student 2009/2010 enrollment at 1247 students (Source: LLESD Projected Enrollments 2008-2018).

The highest possible impact initially to LLESD if every child in the area were to withdraw from their current school and enroll in LLESD which is very unlikely as the children in the area are already in other programs would be at most 5-6 children (0.4% of the total). Clearly this is not statistically significant.

The LLESD's own growth consultant in their report dated September 21, 2009, concluded that eventually the Petition Area would add approximately 15 students or one student from an average of 3 parcels (similar other areas like the Petition Area with in the district) if the petition were granted.

In order to generate an additional 10 students from the area with a "Student Generation Rate" of 1 student per 3 homes, the area would have to have 30 houses turn over. In the last ten years, 15 houses (held for more that 9 months) have sold in the Petition Area. (Source: MLS). Based on the above it would take approximately 20 years to reach 15 students generated from the Petition Area.

Student growth is forecasted by LLESD's own contracted studies by Enrollment Projection Consultants and by other school districts in the area to continue until 2013. Beginning in 2013 the trend is forecasted to student enrollment to decline back down again. Our Petition due to the small number of current and potential students along with a very slow and gradual enrollment rate will have no significant effect on LLESD and their growth planning.

In the short term or the long term, the proposal will not significantly impact the number of pupils enrolled in the Las Lomitas School District - 5 to 15 students in student population of 1300-1400 - less than 0.4% to 1 % of the total many years from now.

We believe that the outcome of the voting by the committee was biased and not reflective of the intended purpose of such a proceeding. The makeup of the committee members makes it almost impossible to get any petition passed regardless of its merits. For example, anyone from either a Revenue Limit school district (Redwood City) or a Basic Aide school district (Las Lomitas) will vote against any transfer petition by residents. Revenue Limit school districts do not want to lose any tax revenue that could be generated by the parcels and Basic Aide school districts will always use overcrowding as an excuse as Basic Aide school districts benefit the most when there are fewer students (more funds per child).

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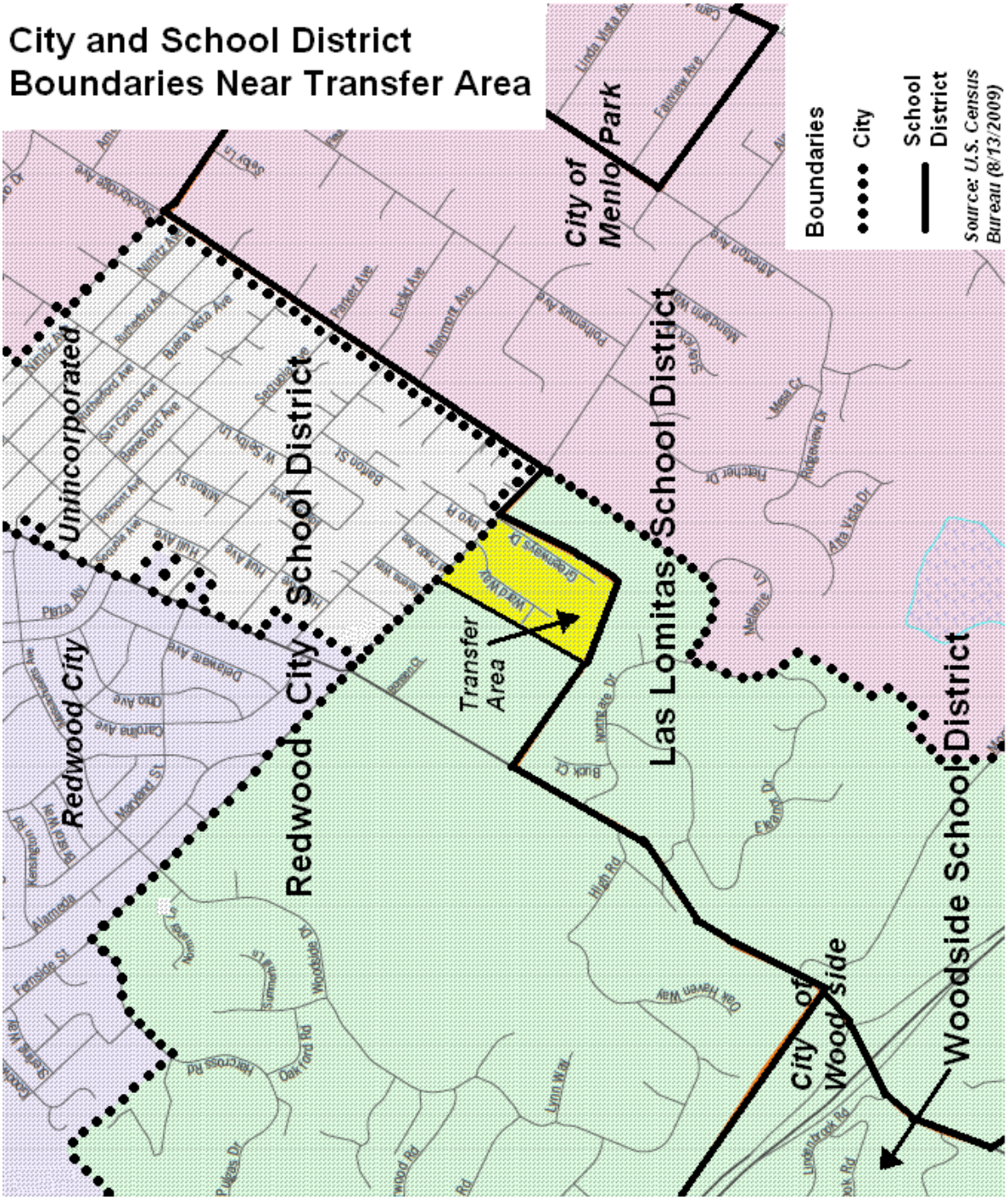
The current process in place (which includes mostly committee members who are school administrators "relating" to the challenges) is ineffective in providing an unbiased decision on transfer petitions because of the economics of both types of school districts. This can explain why the only committee members who voted in support of our transfer request are from the private sector and those who were most vocal against the petition were from the education sector. In fact, the Redwood City school district w&s so desperate as exemplified by their lawyer outright misrepresenting (saying we're mostly affluent white families wanting to be associated with the affluent only when in fact we are a highly diverse neighborhood made up of various races such as Chinese, Vietnamese, Japanese, Koreans, Hispanics, Indians, German and economic status such as retired postal workers, small business owners, medical professionals, electricians, music instructors, engineers, salesman, etc.) the racial makeup and economic status of our neighborhood.

In summary, we believe the intentions of the legislators was to provide an unbiased and productive process where each petition was based on its own merits and not based on economic challenges of either school districts (note the "kids" schools were most concerned about setting precedence and loosing tax revenue which truly are "adult issues" and not "kids issues"). The way the system is now, the same reasons can be used by the school districts to prevent any transfers (particularly from a Revenue Limit to a Basic Aide school district) in the future. Our petition is legitimate and unique. We (as parents of kids going to private Catholic Schools and co-ops where we are constantly involved in fundraising) understand that the school districts' financial challenges are real and ongoing but these challenges should not be used to prevent a process from being used effectively to fix a real problem.

The Petitioners submit that the San Mateo County Committee of School District Organization abused its discretion by denying the Petition for the transfer without substantial evidence in the record. For this reason, the Petitioners respectfully request that the State Board of Education accept jurisdiction of the appeal, reverse the Action of Denial by the County Committee, and determine that the Petition should be granted.

Respectfully submitted,
George Mallinckrodt, Chief Petitioner

City and School District Boundaries Near Transfer Area



San Mateo County Committee on School District Organization
Public Hearing Minutes
APPROVED

Date: September 29, 2009

Place: Las Lomitas School District
Las Lomitas School
299 Alameda de las Pulgas
Atherton, CA

Committee Members Present: Jack Coyne, Emanuele Damonte, Heather McAvoy, Dave Pine, George Robinson, Robert Stelzer, Melchior Thompson, Rudie Tretten, Jacqueline Wallace-Greene

Committee Members Absent: Lois Frontino, Carolyn Livengood

Committee Staff Present: Peter Burchyns, Committee Secretary; Tim Fox, Deputy County Counsel

Chief Petitioner Present: George Mallinckrodt

Present from Las Lomitas School District: Eric Hartwig, Superintendent; Leslie Airola-Murveit, Trustee; Carolyn Chow, Business Manager; Maria Doktorczyk, Trustee; Jamie Schein, Trustee; John MacDonald, Trustee; Gerald Traynor, Principal

Present from Redwood City School District: Jan Christensen, Superintendent; Raul Parungao, Chief Business Official; Hilary Paulson, Trustee; Naomi Hunter, Director of Communication; Claire Cunningham, Deputy County Counsel

Members of the Public Present: John Cardoza, Michael Colyek, Casey Doughty, Skip Doughty, Royal Farros, Debra Hassing, Maggie Heilman, Micheline Kemist, Frank Limon, Kim Lucero McNerney, Daria Mack, Jason Mack, Michael McNerney, Catherine Northrup, Jenny Phung, Tam Phung, Jean Rigg, Diane Rothe, Roger Sherrard, Michael Spath, Larry Thomas, Ann J. Zonner, Jean Zonner, W.J. Zonner

Call to Order

Chairperson Robert Stelzer called the meeting to order at 7:05 p.m.

Description of the Petition

Chairperson Stelzer provided a brief summary of the petition (see Appendix A). Copies of this summary and of the petition itself were provided to those attending the hearing. The petition seeks to transfer a portion of territory from the Redwood City School District to the Las Lomitas School District.

Overview of Petition Process and Public Hearing

Peter Burchyns, Secretary to the Committee, gave an overview of the steps through which the Committee would proceed as it moved to a decision on the petition. Appendices A and B contain the details and were provided to those present at the hearing.

Mr. Burchyns previewed the agenda for the hearing, noting that the petitioners would first present their case, followed by presentations from each of the districts and then comments from others present who wished to speak to the matter. Mr. Burchyns stated that those wishing to address the Committee should fill out a speaker's card and give it to the Chair. It was noted that the Chair would establish time limits for all speakers, depending upon the time available and the number of speakers. Committee members might ask questions of any speaker, particularly in the interest of clarifying points, but the Committee's main purpose was to receive information. Committee deliberations would be scheduled at further meetings, all open to the public.

Presentation by Petitioners

Chief Petitioner George Mallinckrodt made a presentation to the Committee, the main points of which are provided below. Fuller details are found in Appendices C and D.

Mr. Mallinckrodt stated that his presentation would include: background information; financial impacts; petitioners' motivations; responses to the criteria in Education Code Section 35753; and a summary. A copy of his PowerPoint presentation is found in Appendix C.

Mr. Mallinckrodt displayed a map showing the location of the 43 homes included in the petition.

He stated that on April 14, 2003, the Petitioners' homes were annexed into the Town of Woodside. The Town Council of Woodside and the San Mateo County Board of Supervisors found that these homes lay within the Town of Woodside's sphere of influence, and that annexation was "consistent with the General Plan of the Town of Woodside and with Section 153.024 of the Municipal Code of the Town of Woodside".

The petitioner further noted that on July 1, 2000 15 homes on the next street, Stockbridge Avenue, were redistricted into the Las Lomitas District from the Redwood City District and that at that time the County Committee on School District Organization found that those adjacent homes met the criteria for community identity.

Mr. Mallinckrodt stated that the petitioners' homes are represented politically within District 6 of the Town of Woodside and these 43 homes are the only ones out of a total of 322 homes in District 6 that are in the Redwood City School District.

Mr. Mallinckrodt contended that the local paper, *The Almanac*, and the Las Lomitas Education Foundation referred to the petitioners' neighborhood as being part of the Las Lomitas District.

Mr. Mallinckrodt stated that the petitioners have five motivations for requesting the transfer of territory:

- Community – They want their children to be able to attend their community school with their friends from their community.
- Student Safety – They want their children to have the safest route to school.
- Geographic Proximity – They want their children to attend schools close to their homes.
- Environmental Air Quality – They do not want to add to the problems of congestion and pollution when there are better alternatives than each parent driving their children to school in separate vehicles.
- Financial – They believe redistricting helps the financial situation of the Las Lomitas Elementary School District while having no negative impact on the Redwood City School District.

Mr. Mallinckrodt contended that Las Lomitas School is the closest available school, only .8 miles away; that the Las Lomitas school bus stops one block away at the corner of Stockbridge and Alameda, and that no children would have to cross against traffic to get to school. By comparison, he stated that Redwood City schools are farther away, that students would have to cross Alameda and that they would have to pass Woodside High School (1,935 students) to get to Redwood City schools. He also noted that students would be crossing Woodside Road, which 3250-3550 cars per hour use.

Mr. Mallinckrodt presented a chart that showed that schools in the Redwood City District range between 1.0 and 4.6 miles from the petitioners' homes, whereas the two schools in Las Lomitas are .8 and 2.0 miles away.

Mr. Mallinckrodt stated that there are currently eight (8) children now living in the 43 homes who are in grades K-8, and three (3) others who are ages 2-4. All eight of the school-age children currently attend private schools. He estimated the potential future number of students who would attend grades K-8 in Las Lomitas as being 5-6 students annually.

Mr. Mallinckrodt cited data from a Las Lomitas Enrollment Projection Study that estimated a Student Generation Rate (SGR) of one student for every three houses. Based on that, the petitioners' homes would generate 15 students. Based on prior sales, (15 homes sold in the past 10 years), he estimated that it would take approximately 20 years for the 30 sales to occur that would be needed to generate 10 additional students.

Mr. Mallinckrodt presented data that showed the present net property tax assessment on the petitioners' homes to be $39,314,746 and that the Redwood City School District Bond assessment was $9,658. He contended that because none of the students on the territory currently attended school in the Redwood City School District, and that because RCSD was a revenue limit district, the district would lose no funding, assuming that the petitioners would be bound by the bond ($9,658 annually) to maturity.

Mr. Mallinckrodt presented data that showed that the Las Lomitas District (a basis aid district) would receive $96,245 annually from property taxes. The district now spends $13,800 per

student, so if five new students enrolled they would cost the district $69,000 leaving a net of $27,245).

Mr. Mallinckrodt reviewed the nine criteria found in Education Code Section 35753 and stated that the petition met each criterion.

a. *Adequate Enrollment* – The eight school age students represent less than .1% of Redwood City's 8,960 students and less than 1% of Las Lomitas' 1,247 students. Thus, there is little or no overall impact on either district.

b. *Community Identity* – Neighboring homes were transferred to Las Lomitas and the petitioners' 43 homes are the only ones of 322 in District 6 of the Town of Woodside that are in the Redwood City School District. The transfer would therefore improve community identity. He noted that children who participate in activities together would attend school together. These children participate in basketball, baseball, soccer, tennis, swim team and other sports in leagues formed from Woodside, Portola Valley, Ladera, Atherton and Menlo Park. Families that participate in the community would attend school together. These families worship at church, go to the library, participate in Town Government and organizations such as Rotary, and attend town picnics and festivals in the same area.

c. *Equitable Division of Property and Facilities* – The petition area contains no school properties or facilities, and the impact of eight children would be negligible. Thus, there are no property or facility issues.

d. *Racial/Ethnic Discrimination or Segregation* – Since none of the students attends the Redwood City School District, there would be no impact on Redwood City. The number of students (8) is too small to make a significant impact on Las Lomitas.

e. *Increase in Costs to the State* – There will be no substantial increase in costs to the state, due to the small number of homes involved.

f. *Promote Sound Educational Performance* – There would be no impact on educational performance, since no students attend RCSD and the small number of potential new students to Las Lomitas would cause no change.

g. *School Facilities Costs* – Due to the small number of students, there would be no impact on facilities costs.

h. *Primarily Designed for Purposes Other Than to Increase Property Values* – The petitioners have contended they want their children to attend school with others in their community, with safe routes to schools in close geographic proximity, thereby not adding to congestion and pollution by having to drive their children to school. The redistricting they seek would help Las Lomitas financially with no negative effort on Redwood City.

i. *No Substantial Negative Effect on Either District* – The data previously presented show no effect on Redwood City and a net gain of $25-28,000 annually for Las Lomitas.

Mr. Mallinckrodt summarized by contending that the petition met all the state's criteria, promoted a sense of community, improved safety, enabled children to attend schools close to their homes, would lower congestion and pollution and cause no fiscal harm.

In response to a question from the Committee regarding when the homes in the area were built, Mr. Mallinckrodt stated that most were built from the 1930s through the 1950s.

In response to a question from the Committee, Mr. Mallinckrodt said that in the past, going back 10-15 years or more, students from the area did attend school in Redwood City and they said that the education was good but that they were outsiders and felt socially ostracized.

When asked why only 15 homes were transferred in 1999, Mr. Mallinckrodt said that he believed that it was because the homes that are now seeking to transfer had not been annexed into the Town of Woodside at that time. He stated that the County Committee on School District Organization was designed to fix inequities of this type.

Mr. Mallinckrodt said to the Committee that his analysis does assume that students in the area will not attend the Redwood City School District in the future because history has shown that for the past several years there have been no children from the area going to Redwood City.

Additional written information that Mr. Mallinckrodt submitted to the Committee on September 27, 2009 is found in Appendix D.

Presentation by Las Lomitas School District

Eric Hartwig introduced himself to the Committee as the Superintendent of the Las Lomitas Elementary School District, who would be presenting on behalf of the district. He stated that neither he nor the Board of Trustees of the Las Lomitas District had taken positions on the petition. He added that his Board will deliberate after participating in the hearings and may take a position at a later date; if it does, it will communicate that position to the Committee.

Mr. Hartwig stated that his purpose at the hearing was to communicate information that might prove helpful to the Committee as it made its decision on the petition. He noted that his remarks were related to the criteria found in Education Code Sections 35370 and 35753. His major points are summarized below.

- Neither the Redwood City nor the Las Lomitas District owns any property or facilities in the area covered by the petition.
- Las Lomitas would probably not experience heightened community awareness if the transfer were approved. It is possible that other "pockets" of parcels in the Redwood City District that border Las Lomitas would seek to transfer.

- Students in the area could attend Ford Elementary in Redwood City, which is 1.0 miles away (versus .8 miles for Las Lomitas Elementary). Kennedy Middle School in Redwood City is only 1.5 miles away and thus closer to the area than La Entrada School.

- Regarding costs to the state, if the transfer were approved, Redwood City would lose ADA funding of $6117 per student, although he believed there were no students from the transfer area currently attending Redwood City. If there were students attending the Redwood City School District, the state would save money since Las Lomitas is a basic aid district.

- If the transfer were approved, there would be incremental but not disruptive increases in class sizes, and potential needs for additional support staff or specialist teachers.

- Regarding a significant increase in school housing or facilities costs, the Las Lomitas School District has been experiencing a steady increase in enrollments over the past two decades, with an acceleration of this trend in the past few years. This trend is expected to continue into the next 5-7 years reaching a plateau of about 1,415. Both schools have added portable classrooms in the recent years to accommodate this growth, and the next three years' growth can be handled in this fashion. There is a very strong likelihood that the district will need to build additional permanent classrooms or add an additional school site should this trend continue and/or plateau at levels significantly higher than the current enrollment of 1,238 students.

- Both schools are currently over-subscribed, have portables and need more of them. There are seven portables at Las Lomitas and three at La Entrada.

- The district appears to be on a "cusp" regarding additional permanent classrooms or schools; if growth levels off, then temporary solutions would probably be the most economical. However, if additional new students continue to come into the district, it is possible that one of the surplus properties would have to be converted into an LLESD school site. This alternative would require significant support by tax-payers in the form of a new bond in the $10 million to $35 million range, depending on the location and configuration of the site. Opening a new site would also cost the LLESD annual income in the range of $600,000 to $1,000,000 (that it currently receives in leases from these sites) and would likely require passage of an additional parcel tax to fund the staffing and operation of the new site.

- A demographer hired by the district predicts that the district would eventually receive 15 students from the transfer area, if the petition were approved.

- Due to the #1 ranking in the state's AP1 scores and the receipt of state and national awards by its schools, many students seek transfers into the district. Estimates of increases in property values to homes that would be transferred to Las Lomitas if the petition were approved range from 10-20% or from $100,000 -$150,000 for each bedroom beyond the first one.

- The district rejects inter-district transfer requests but does have about 80 transfer students under the Tinsley Court-Ordered Transfer Program. The district also enrolls 18 students who live outsde the district but are the children of employees.

- If the petition is approved, the district would receive approximately $94,000 in new local taxes. Since the district spends about $14,000 per student, that would fund about seven students; if the predicted 15 arrived, the $94,000 would not cover the cost of educating them.

- Transporting students living in the area under discussion would require changes in bus routes and possibly add stress to an already crowded busing program.

In response to a question, Mr. Hartwig stated that he did not know when, or if, 15 new students from the area would enroll.

In response to a question, Mr. Hartwig stated that transportation does encroach on the general fund.

Mr. Hartwig distributed a written copy of his remarks, which are found in Appendix E.

Presentation by Redwood City School District

Superintendent Jan Christensen began the presentation for the Redwood City School District by noting that test scores were going up and that the district was on its way to excellence. She then introduced Claire Cunningham, Deputy County Counsel, who would be making the presentation for the district. Key points of Ms. Cunningham's presentation are summarized below. The materials she used for her presentation are found in Appendix F.

- The petition fails to meet the criteria for territory transfers because it would:
    - Promote racial and socioeconomic segregation
    - Encourage other predominantly white and wealthy neighborhoods to transfer out of the RCSD
    - Result in increased state costs
    - Negatively affect the fiscal status of the RCSD

- The petition also fails to set forth an adequate rationale for changing the existing boundaries.

- The petition doesn't satisfy the criterion for adequacy of enrollment because it reduces the number of students eligible to enroll in the district. The fact that current owners don't enroll in Redwood City doesn't mean future owners will not enroll.

- The houses in the area have had little turnover; it is likely that future owners will have younger children.

- The petition doesn't promote substantial community identity. The fact that the property is in the Town of Woodside doesn't support a transfer. Schools in both districts are equidistant from the proposed transfer territory and other factors that support community identity such as parks, libraries, churches and shopping centers do not exist in the relevant area to tie the area to Las Lomitas.

- Approval of the petition will create a precedent and the Committee should consider the potential "domino effect."

- The 1999 transfer of adjacent property (the Stockbridge petition) does not set a precedent for this petition. The Stockbridge petition was unique in that for 21 years both districts mistakenly believed these 15 homes were in Las Lomitas, and acted accordingly. When the error was uncovered, neither district opposed the transfer to remedy the error.
- The district believes the transfer would have adverse financial impacts on Redwood City.
- The transfer, if granted, would reduce the number of white students within the territorial boundaries of the Redwood City District and create boundaries that racially isolate its students from neighboring communities.
- The approval of the transfer would result in increased costs to the state, in the amount of $94,000.
- The transfer would disrupt the educational program of the Redwood City School District by exacerbating the problem of educating students in a racially isolated environment, and the problem would be compounded if other areas were encouraged to petition for transfer.
- The transfer will necessarily impact school facilities costs for Las Lomitas.
- The Redwood City School District is skeptical of petitioners' simultaneous assertions that the small population of students in the affected territory means that the impact on the school districts will be minor, while also asserting that their primary desire is to allow children in the affected territory to attend the relatively more distant schools attended by children living in neighboring properties.
- The proposed transfer would reduce the territory of Redwood City's taxing authority for bonds and parcel taxes, and would also cause a tax loss of $10,011.61 based on 2009 assessed valuations. Over 20 years this amount would grow to a cumulative total of $283,383.28 that would have to be reallocated to other taxpayers in the district.
- In summary, the Redwood City School District believes that matters of equity and educational policy, as well as the factors in the Education Code, weigh against the transfer and the district requests that the Committee deny the petition.

In response to a question from the Committee about the issue of setting precedents, Ms. Cunningham replied that the Committee must look at the nine criteria in the Education Code, but that it can look at other things, including whether precedents would be set. She noted that there have been many other attempts to move territory from the Redwood City School District to the Woodside District.

In response to a question from the Committee, the Committee's counsel, Tim Fox, stated that the Board of Supervisors approved the Stockbridge petition because that was the last step in that process.

George Mallinckrodt, Chief Petitioner, stated that his neighborhood has been split and annexed into Woodside. There are only eight school-aged students who make no impact on Redwood City's 9000 students. He noted that Woodside has stores and churches, and that three other territories have been transferred out of Redwood City District – two to the Woodside District, and one to Las Lomitas. There would be little impact on Las Lomitas by eight children. Mr.

Mallinckrodt stated his concerns about safety issues for students traveling to Selby Lane School and said there was a place for the Las Lomitas school bus to pick up students. He also pointed out that Woodside High School is not being annexed and that it serves as a natural boundary for houses on its other side.

Public Comments

After a short recess, the Committee reconvened and heard comments from all members of the public who were present and who requested to speak. Summaries are presented below.

Michael Collier

I had one child in the Redwood City District at Roy Cloud School and the district did a great job with her but she got in trouble there and one reason was that she did not grow up in the Roy Cloud community. I have no children there now. I emphasize community. My Realtors Association and Rotary Club are in my area and my child's sense of identity is in Woodside Heights. I also have a concern about children having to cross Highway 84.

Mike McNerney

I have two school-aged children. Menlo Park is our community. The roads - the Alameda and Woodside Road (Route 84) - isolate us. We are not connected in the school, which provides community for children.

Royal Farris

We have two districts - one does not want to lose us and the other doesn't want us. One block away is Stockbridge that is part of our natural community and that was allowed to transfer to Las Lomitas. Our kids are part of the natural community but they cannot go to school with their friends.

In the last 20 years, only eight students have been generated, so why would the next 20 years be different? The estimates for 15 new students are high. Young families cannot afford homes on the two streets in question.

Redwood City does not get paid if there are no students from our area attending its schools, so how does the district lose $94,000? (Chairperson Stelzer stated that the Committee would request an independent analysis of that issue.)

Our children would not have to cross major streets to get to the Las Lomitas bus stop. The socialization for our child is at Las Lomitas and we are the same as Stockbridge.

Roger Sherrard

We have been showing numbers and they do not do the matter justice. Our events and community are in Atherton, not Redwood City.

All eight students go to private schools at St. Raymond or Nativity, and not at St. Pius.

Many districts have over-enrollment, not just Las Lomitas.

Where is the break-even point on cash flow with new students coming into Las Lomitas?

We have segregation based on wealth. We do not know the ethnic future of the area but the socio-economic status (SES) of the area will be high. SES creates community.

Don't decide the matter on precedent, but base the decision on community. Community is the bottom line.

Ann Zonner and W.J. Zonner

We have two children, ages 4 and 2. Our children have friends in Las Lomitas and we have play dates there.

We live at 2195 Greenways Drive and were a young couple just starting out when we moved there, with no children. Over the years we realized how important school is. Our neighbors are in Las Lomitas. We are involved in the Woodside Co-Op and we put in a lot of time there.

Tam and Jen Phung

I am a strong proponent of parent volunteerism. Parents give a lot. I am a pediatric pharmacist at Stanford and also teach music on the side and want to volunteer at Las Lomitas.

It is dangerous for children to cross the road to go to Selby Lane School.

John Cardoza

I live in Greenways Drive and have three children. I was stunned by the Redwood City presentation and the fear of precedent. Each petition must be weighed on its own merits.

I am a computer scientist, not a demographer, but I think Redwood City predicts like economists. It did not hold water for me that our transfer would have a big impact on Redwood City.

I do not need Google Maps to tell me about my community. My children's friends are from Las Lomitas. Look at where we are.

Debra Hassing

I have only known about this for one day and had only two hours to prepare. I lived in Redwood City but paid 30% more for a smaller house in Las Lomitas because we valued education.

Other people live close to our schools but go to Oak Knoll School in the Menlo Park City School District, and vice versa. Somebody must live on the boundary, and you can still choose where to play soccer, swim, be in Scouts, etc.

It is not safe for children to walk along the Alameda. To me, it all comes down to property values. There are 43 houses and only eight children. Why do the others want to be in the Las Lomitas District?

Lots of houses are for sale in Las Lomitas - you are welcome to buy a house in the district.

Committee Discussion

The Committee noted that there would be no impact of this proposed transfer on the Sequoia Union High School District and the way it drew its attendance areas. The Committee has no authority to change attendance areas within a district. The Sequoia District does have a policy of allowing students within the district to apply for intradistrict transfers to any school in the district.

Adjournment

The meeting was adjourned at 9:30 p.m.

Attachments

San Mateo County Committee on School District Organization
Public Hearing Minutes
APPROVED

Date: October 6, 2009

Place: Redwood City School District Office
750 Bradford Street
Redwood City, CA

Committee Members Present: Jack Coyne, Emanuele Damonte, Heather McAvoy, Dave Pine, George Robinson, Melchior Thompson, Rudie Tretten, Jacqueline Wallace-Greene

Committee Members Absent: Lois Frontino, Carolyn Livengood, Robert Stelzer

Committee Staff Present: Peter Burchyns, Committee Secretary; Tim Fox, Deputy County Counsel

Present from Las Lomitas School District: Eric Hartwig, Superintendent; Carolyn Chow, Business Manager; Jamie Schein, Trustee

Present from Redwood City School District: Jan Christensen, Superintendent; Raul Parungao, Chief Business Official; Naomi Hunter, Director of Communication; Claire Cunningham, Deputy County Counsel; Dennis McBride, Trustee

Members of the Public Present: John Cardoza, Michael Colyek, Collin Chess, Stuart Epstein, Royal Farros, Virginia Chang Kiraly, Frank Limon, Kim Lucero McNerney, George Mallinckrodt, Susie Peyton, Jenny Phung, Tam Phung, Jean Rigg, Diane Rothe, Joann Sockolov, David Tambling, and other members of the public

Call to Order

Vice-chairperson Rudie Tretten called the meeting to order at 7:05 p.m.

Description of the Petition

Rudie Tretten provided a brief summary of the petition (see Appendix A). Copies of this summary and of the petition itself were provided to those attending the hearing. The petition seeks to transfer a portion of territory from the Redwood City School District to the Las Lomitas School District.

Overview of Petition Process and Public Hearing

Peter Burchyns, Secretary to the Committee, gave an overview of the steps through which the Committee would proceed as it moved to a decision on the petition. Appendices A and B contain the details and were provided to those present at the hearing.

Mr. Burchyns previewed the agenda for the hearing, noting that the petitioners would first present their case, followed by presentations from each of the districts and then comments from others present who wished to speak to the matter. Mr. Burchyns stated that those wishing to address the Committee should fill out a speaker's card and give it to the Chair.

It was noted that the Chair would establish time limits for all speakers, depending upon the time available and the number of speakers. Committee members might ask questions of any speaker, particularly in the interest of clarifying points, but the Committee's main purpose was to receive information. Committee deliberations would be scheduled at further meetings, all open to the public.

Presentation by Petitioners

Chief Petitioner George Mallinckrodt stated that his presentation would include: background information; financial impacts; petitioners' motivations; responses to the criteria in Education Code Section 35753; and a summary.

Mr. Mallinckrodt displayed a map showing the location of the 43 homes included in the petition. He stated that:

On April 14, 2003, the petitioners' homes were annexed into the Town of Woodside.
The Town Council of Woodside and the San Mateo County Board of Supervisors found that these homes lay within the Town of Woodside's sphere of influence, and that annexation was "consistent with the General Plan of the Town of Woodside and with Section 153.024 of the Municipal Code of the Town of Woodside."

The petitioner further noted that on July 1, 2000, 15 homes on the next street, Stockbridge Avenue, were redistricted into the Las Lomitas District from the Redwood City District and that at that time the County Committee on School District Organization found that those adjacent homes met the criteria for community identity.

Mr. Mallinckrodt stated that the petitioners' homes are represented politically within District 6 of the Town of Woodside and these 43 homes are the only ones out of a total of 322 homes that are in the Redwood City School District.

Mr. Mallinckrodt stated that the homes in the Woodside Heights area are part of the Citizens Emergency Response and Preparedness Program, Area 14, and that they work within the Woodside Fire Protection District.

Mr. Mallinckrodt contended that the local paper, *The Almanac*, and the Las Lomitas Education Foundation referred to the petitioners' neighborhood as being part of the Las Lomitas District.

Mr. Mallinckrodt stated that the petitioners have five motivations for requesting the transfer of territory:

- Community – They want their children to be able to attend their community school with their friends from their community.

- Student Safety – They want their children to have the safest route to school.
- Geographic Proximity – They want their children to attend schools close to their homes.
- Environmental Air Quality – They do not want to add to the problems of congestion and pollution when there are better alternatives than each parent driving their children to school in separate vehicles.
- Financial – They believe redistricting helps the financial situation of the Las Lomitas Elementary School District while having no negative impact on the Redwood City School District.

Mr. Mallinckrodt contended that Las Lomitas School is the closest available school, only .8 miles away; that the Las Lomitas school bus stops one block away at Stockbridge/Alameda, and that no children would have to cross against traffic to get to school. By comparison, he stated that Redwood City schools are farther away, that students would have to cross Alameda and that they would have to pass Woodside High School (1,935 students) to get to Redwood City schools. He also noted that students would be crossing Woodside Road, which 3250-3550 cars per hour use. He also contended that the intersection of Alameda de las Pulgas and Stockbridge is a very busy intersection that has no crosswalk and that it is 1.4 miles to Selby Lane School.

Mr. Mallinckrodt presented a chart that showed that schools in the Redwood City District range between 1.0 and 4.6 miles from the petitioners' homes, whereas the two Las Lomitas schools are .8 and 2.0 miles away. He noted that Redwood City is an Open Choice district and that selecting an Open Choice school would require longer commutes and more perilous travel for children who would have to cross highway 84 (Woodside Road).

Mr. Mallinckrodt stated that there are currently eight (8) children now living in the 43 homes who are in grades K-8, and three (3) others who are ages 2-4. All eight of the school-age children attend private schools. He estimated the potential future enrollment pool for grades K-8 to be five (5) or six (6) students.

Mr. Mallinckrodt cited data from a Las Lomitas Enrollment Projection Study that estimated a Student Generation Rate (SGR) of one student for every three houses. Based on that, the petitioners' homes could generate 15 students. Based on prior sales, (15 homes sold in the past 10 years), he estimated that it would take approximately 20 years to generate 10 additional students.

Mr. Mallinckrodt presented data that showed the present aggregate net property tax assessment on the petitioners' homes to be $39,314,746 and that the Redwood City School District Bond assessment was $9,658. He contended that because none of the students on the territory currently attended school in the Redwood City School District, and that because RCSD was a revenue limit district, the district would lose no funding, assuming that the petitioners would be bound by the bond ($9,658 annually) to maturity.

Mr. Mallinckrodt presented data that showed that the Las Lomitas District (a basic aid district) would receive $96,245 annually from property taxes. The district now spends $13,800 per

student so if five new students enrolled, they would cost the district 5 x $13,800 = 69,000. Thus, the district would net $25,000-$28,000 per year ($96,245 - $69,000 = $27,245). He noted that the property tax base would change with sales.

Mr. Mallinckrodt reviewed the nine criteria found in Education Code Section 35753 and stated that the petition met each criterion.

- *Adequate Enrollment* – The eight school age students represent less than .1% of Redwood City's 8,960 students and less than 1% of Las Lomitas' 1,247 students. Thus, there is little or no overall impact on either district.

- *Community Identity* – Neighboring homes were transferred to Las Lomitas and the petitioners' 43 homes are the only ones of 322 houses in District 6 of the Town of Woodside that are in the Redwood City School District. The homes on Stockbridge that were transferred in 1999 share a fence line with homes in the petition area and the house numbers follow the same numerical logic beginning with 2100 and are of a similar size and value. The transfer would therefore improve community identity. He noted that children who participate in activities together would attend school together. These children participate in basketball, baseball, soccer, tennis, swim team and other sports in leagues formed from Woodside, Portola Valley, Ladera, Atherton, and Menlo Park. Families that participate in the community would attend school together. These families worship at church, go to the library, participate in Town Government and organizations such as Rotary and attend town picnics and festivals in the same area. Even students who attend private school attend private schools in the area.

- *Equitable Division of Property and Facilities* – The petition area contains no school properties or facilities, and the impact of eight children would be negligible. Thus, there are no property or facility issues.

- *Racial/Ethnic Discrimination or Segregation* – Since none of the students attends the Redwood City School District, there would be no impact on it. The number of students (8) is too small to make a significant impact on Las Lomitas. There are 43 homes in the petition, out of a total of 35,000+ homes in the Redwood City District. The proposed transfer changes nothing in either district, with regard to race or ethnicity.

- *Increase in Costs to the State* – There will be no substantial increase in costs to the state, due to the small numbers of homes and students involved.

- *Promote Sound Educational Performance* – There would be no impact on educational performance, since no students attend RCSD and the small number of potential new students to Las Lomitas would cause no change.

- *School Facilities Costs* – Due to the small number of students, there would be no impact on facilities costs. The increased number of students in Las Lomitas would average less than one student per year.

- *Primarily Designed for Purposes Other Than to Increase Property Values* – The petitioners contended they want their children to attend school with others in their community, with safe routes to schools in close geographic proximity, thereby not adding to congestion and pollution by having to drive their children to school. The redistricting they seek would help Las Lomitas financially with no negative effort on Redwood City.

- *No Substantial Negative Effect on Either District* – The data previously presented show no effect on Redwood City and a net gain of $25-28,000 annually for Las Lomitas.

Mr. Mallinckrodt summarized by contending that the petition met all the state's criteria, promoted a sense of community, improved safety, enabled children to attend schools close to their friends homes, would lower congestion and pollution and cause no fiscal harm.

Presentation by Redwood City School District

Superintendent Jan Christensen of the Redwood City School District began the presentation for the district by stating that she did not doubt that the petitioners were acting in the best interests of their children, but she added that we must consider the impact of the proposed transfer upon the district as a whole as it is working to make Redwood City a premier school district.

Ms. Christensen said that Claire Cunningham, Deputy County Counsel, was serving as the district's legal counsel and in that capacity she would cover the part of the district's presentation dealing with legal points and that Raul Parungao, the district's CBO, would cover the economic issues.

A copy of the district's presentation is found in Appendix D.

Ms. Cunningham's key points are shown below.

- The petition fails to meet the criteria for territory transfers because it would:
    - Promote racial and socioeconomic segregation.
    - Encourage other predominantly white and wealthy neighborhoods to transfer out of the RCSD.
    - Result in increased state costs.
    - Negatively affect the fiscal status of the RCSD.

- The petition also fails to set forth an adequate rationale for changing the existing boundaries.

- The petition does not satisfy the criterion for adequacy of enrollment because it reduces the number of students eligible to enroll in the district. The fact that current owners don't enroll in Redwood City doesn't mean future owners will not enroll.

- The houses in the area have had little turnover; it is likely that future owners will have younger children.

- The petition doesn't promote substantial community identity. The fact that the property is in the Town of Woodside doesn't support a transfer. Ms. Cunningham displayed maps showing that the Redwood City School District includes territory from other cities and that parts of the territory of the City of Redwood City are assigned to other school districts. She also showed a map of the county that demonstrated that there is no city in the county with boundaries contiguous with the boundaries of a single school district.

- Schools in both districts are equidistant from the proposed transfer territory and other factors that support community identity such as parks, libraries, churches and shopping centers do not exist in the relevant areas to tie the area to Las Lomitas.

- The issue of safety at the intersection of Stockbridge and the Alameda could be remedied with signs, signals and crosswalks.

- The territory at issue and the surrounding areas are purely residential.

- The LAFCO criteria for annexation for towns and cities are different from the Education Code criteria for transfers of school territory.

- Approval of the petition will create a precedent for efforts to transfer individual parcels of property that happen to be situated on the boundary of the Redwood City School District.

- While small transfers of territory and school age pupils, taken individually, will rarely have a significant impact on either the losing or the gaining district, the Committee should consider the cumulative effect such a small transfer might create.

- There have been several petitions to transfer territory out of RCSD, as shown below:
    - 1974 – Woodside Hills transfer petition denied by the County
    - 1979 – Edgewood Park transfer petition denied by the State Board
    - 1981 – Lloyden Park transfer petition denied by the State Board
    - 1981 – Edgewood Park transfer petition to San Carlos denied by the SBE
    - 1986 – Edgewood Park transfer to San Carlos denied by the State Board
    - 1991 – Eucalyptus Court transfer to Woodside unopposed by RCSD
    - 1993 – Emerald Hills transfer to Woodside approved by election
    - 1999 – Stockbridge petition approved

- The 1999 Stockbridge petition remedied a unique misunderstanding created when those parcels were annexed into the Town of Woodside. It does not set a precedent for this petition. The key events were:
    - October 1975 – Stockbridge parcels annexed to the Town of Woodside.
    - Prior to 1975, RCSD provided bus transportation to children in that area.
    - From 1976 to 1997 students from those homes attended LLESD because both districts believed this territory was part of LLESD. LLESD also provided bus transportation.
    - Until the spring of 1997, LLESD circulated a district boundary map that included these parcels.
    - Sometime in 1997, the error was discovered and LLESD revised its boundary map to delete these parcels.

- Until this time, all parties, including RCSD, LLESD and the homeowners believed that a school district boundary change had occurred in the 1970s. All parties acted consistently with this change for more than 20 years.
- The Stockbridge petition was unopposed by both districts and the County Board of Supervisors approved the transfer on April 20, 1999.

- The Redwood City School District believes the transfer would lessen the District's ability to provide students an integrated environment.

- The transfer, if granted, would reduce the number of white students within the territorial boundaries of the Redwood City School District and create boundaries that racially isolate its students from neighboring communities. The tables below show the existing differences in ethnicities.

Breakdown by Ethnicity

	RCSD	LLESD
White	22.4%	66.6%
Hispanic	69.1%	6.9%
African American	1.7%	1.5%
Asian	2.8%	10.1%
Other/no response	4%	14.9%

Breakdown by Ethnicity

	Town of Woodside	RCSD
White, non-Hispanic	87.6%	22.4%
Total Hispanic	4.3%	69.1%
Other minority	8.1%	8.5%

- The transfer would disrupt the educational program of the Redwood City School District by exacerbating the problem of educating students in a racially isolated environment and the problem would be compounded if other neighborhoods bordering wealthy districts were encouraged to petition for transfer.

Raul Parungao, Redwood City's CBO, addressed the Committee on financial issues related to the proposed transfer. His key points are summarized below.

- The transfer of territory from a Revenue Limit school district into a Basic Aid school district with projected rising enrollment will necessarily impact school facilities costs for the school district newly receiving the territory – in this case, LLESD. RCSD defers to LLESD regarding the level of such an impact.

- If the transfer occurs, the property value for these 44 parcels is estimated to increase by 15-20%.

- Another source estimates that the increase to property value will be $150,000 per bedroom.

- Only a few of these houses have school age children – what is the rationale for allowing the other parcels to transfer into the LLESD if not to increase their property value?
- The Redwood City District believes that the proposed transfer will increase costs to the state because a reduction of property tax to Redwood City must be backfilled by the state. The lost property tax would be about $94,000 each year.
- A loss of property tax in Redwood City will equal a gain of property tax to Las Lomitas School District.
- Therefore, state costs would increase by about $94,000 each year, or about $3.5 million over 20 years, assuming average annual increases of 6% in Assessed Value (AV). An average increase of 6% is reasonable because the average annual increase in AV has been:
    - 7.64% over 30 years
    - 6.55% over 20 years
    - 7.23% over 10 years
    - 5.86% over 5 years
- This increase is in the context of a state budget shortfall of $60 billion over 2008-09 and 2009-10, with recent projections showing that 2010-11 state revenues are short by $8-10 billion. If this happens, Redwood City could lose $3-4 million in 2010-11.
- The Redwood City District believes the proposed transfer would have an adverse effect on its fiscal status.
- Tax assessment on the subject properties to repay a General Obligation Bond is $10,000 annually or $284,000 for 20 years, assuming 6% annual increases in Assessed Value. The shortfall will be collected and shared by the rest of the households within the district. This assessment applies to all of the taxing area, which means no senior tax exemption.
- Future losses in parcel tax revenue could occur. RCSD came very close to passing the last two parcel tax initiatives, and will put a parcel tax initiative before the voters again in the future.
- State Constitutional Amendment (SCA) 6, if approved, will allow local school districts to approve a local parcel tax with a 55 percent majority rather than the two-thirds majority currently required.
- In conclusion, the RCSD believes that matters of equity and educational policy, as well as the factors set forth in the Education Code, weigh against the proposed transfer and request that the Committee deny the petition.

Presentation by Las Lomitas School District

Eric Hartwig introduced himself as the Superintendent of the Las Lomitas School District and stated that he was going to make brief remarks to clarify the presentation he made at the previous public hearing on September 29, 2009, and to provide some new information. A summary of his

comments is provided below and a written copy of his remarks, which he gave to the Committee and those at the hearing, is in Appendix E.

- On the issue of "substantial community identity," public records indicate that the properties in question are in the Greenways tract and the Ward Tract, and not in the Woodside Heights Tract.
- Also, there exists the Woodside Heights Association, which was formed in the 1950's and has a Board of Directors. It holds multiple events for Woodside Heights (Christmas party with Santa for the children, summer picnic/potluck for families, Halloween party and trick-or-treating, and an annual meeting with residents and the Town Staff in Town Hall). The houses on Stockbridge that were annexed into the LLESD are members of the Woodside Heights Association, but the houses on Greenways and Ward are not.
- So, it appears from a legal description standpoint that the petitioners' neighborhood is not in the Woodside Heights tract. From a local homeowners' organization viewpoint, the parcels in question are not members of the Woodside Heights Association.
- The term "community identity" is very general, hard to define. But for a glimpse into what the residents of Ward Way and Greenways and the residents of the larger Woodside Heights area feel about the topic, there is a very active blog going on within the Country Almanac's website. It can be accessed by going to: http://www.almanacnews.com/square/index.php?i=3&d=&t=3092
- With regards to petitioners' claim that they should transfer into LLESD because their children have formed significant friendships with Las Lomitas children because of their participation in extracurricular activities, the extracurricular leagues (baseball, basketball, soccer) do not follow school district lines. For example, this past spring one Little League team had half its players from Las Lomitas and half from Oak Knoll (Menlo Park City School District). That doesn't provide a basis for the Oak Knoll children to attend LLESD.
- Of the eight children whom petitioners concede would end up attending Las Lomitas (assuming that the three at Menlo School stay there), five of those children are too young to have formed long-term relationships with any extracurricular friends.
- With regards to petitioners' claim that transportation challenges weigh in favor of annexation, traffic on Woodside Road is heavy, and to a lesser extent, it is busy on Alameda. However, these traffic realities have not changed substantially in the recent past. When petitioners purchased their homes on a *cul de sac* off Alameda, they knew that turning left would always be a challenge. There is no unfair surprise to petitioners that it is difficult to make a left turn from their streets on to Alameda.
- Even if the traffic on Alameda were an important legal consideration, which it isn't, the petitioners can turn right on Alameda, and then left on Stockbridge to attend the Selby Lane School in Atherton, part of the RCSD. Petitioners suggested that a school bus could use the SAMTRANS bus stop on Alameda. We need to clarify that this would not be possible because school buses are different than city buses. All cars must stop for a school bus and this would cause a huge traffic problem along Alameda.

- With regards to petitioners' claim that the reorganization is not designed to increase their property values, of the 43/44 parcels at issue, only approximately five or six have children who would attend Las Lomitas, according to petitioners. That means that 38 or 39 parcels – almost all of those who signed the petition – have an increase in their property values as a significant or primary motivation.
- The Las Lomitas Elementary School District is not a closed community. There are family-sized residences offered for sale in our school district. There is a wide variety of lot sizes, housing square footage, and even styles of homes. In other words, there is always the opportunity for the petitioners to purchase a home in the school district.
- If the district received 15 students from the transfer of territory, it would create a "negative hit" of $112,000 on the district. If any were special needs students, they would require added expenses.
- The district projects 700 students at Las Lomitas Elementary School and that is too many. Major construction is anticipated.

Questions from the Committee

In response to a question from the Committee, Mr. Hartwig stated that the district enrolls approximately 80 Tinsley Transfer students each year, under the Tinsley Court-Ordered Program. This is the annual total – not 80 new students each year. There are also 18 transfer students who are children of employees. Families who move out of the district for short periods, due to construction on their homes, may also have their children remain in the district on a transfer.

In response to a question, Chief Petitioner George Mallinckrodt stated that the petition would not be setting a precedent because it was limited to homes annexed into Woodside that are all on two streets separated from the rest of the neighborhood that was moved into Las Lomitas. No other petition would have this situation.

In response to a question, Mr. Mallinckrodt stated that the petitioners were asking for the transfer now because the situation has evolved – they were incorporated before and are now in Woodside.

In response to a question about the precedent for saying that educational issues take priority, Claire Cunningham stated that this was established by the Pacific Parc petition, the most recent one to come before the Committee.

The Committee also commented about the relative significance of a possible $94,000 expense to the state when compared to the total state budget deficit of $60 billion over three years, and about whether the movement of 20 students would make the enrollment of Redwood City inadequate.

Public Comments

After a short recess, the Committee reconvened and heard comments from all members of the public who were present and who requested to speak. Summaries are presented below.

Kim McNerny

I choose to send my children to Nativity School but one of the problems that we have is that the children there are from all over and we have a hard time getting our children to activities with their classmates. We want our children to be able to go to school with their friends who live on Stockbridge.

Royal Farros

How can this make sense to one district and not another? This is gerrymandering. This is not about the quality of education in the districts or about our property values; our property value is due to our location in Woodside. We want to fix what is broken and have our children be able to go to school with their friends in the community.

John Cardozo

How can zero movement of children out of the Redwood City District affect racial composition? We also need to look at the numbers on the bar graph (presented by Mr. Parungao); they illustrate a point effectively but are not to scale. Think of what commuting means to people and do not just look at a Google map. I coach a lot of teams and the children in our area play with the children from Las Lomitas.

Jean Rigg

I have lived in the area for 30 years and purchased my home from people who told me that they did not want to be in the Las Lomitas District because that would have meant higher property taxes.

There is no benefit to us remaining in the Redwood City District - our children do not go to school there. There would be financial and other benefits to Las Lomitas if the petition were approved.

All schools in our area are crowded because this is a desirable area to live. The private schools push "community." We want community for our children.

Tom Phung

We have two children and we want them in the community. We welcome you to come and visit our community.

Jo-Ann Sockolov

I am the President of the Redwood City School District Foundation and a parent in the district. We welcome the residents of Woodside Heights to the district. I moved from Redwood City to Atherton and our children could have gone to school in Menlo Park but we chose to keep them in Redwood City.

Naomi Hunter

I have been a staff member in the Redwood City District for two years, but a parent there for 12 years, with three boys. I am speaking as a parent. We have had a strong sense of community in the Redwood City District but it also extends further than the schools, to include churches, participation by our children on 30 sports teams over the years, friends from other schools, etc. Community blends and overlaps, and our children had a great education in the district.

Dennis McBride (Redwood City Board Member)

This issue comes down to precedents for me and I ask the Committee to make a thoughtful decision on the petition, remembering that tonight people have been citing the 1999 Stockbridge transfer as a precedent. Our education is good and if parents participate, their children do well.

Mr. McBride also read to the Committee a written communication from Hilary Paulson, a Board member in Redwood City who was ill and unable to attend the meeting. That statement is produced below.

Statement from Hilary Paulson (read by Dennis McBride)

Hello,

I'm very sorry that I could not be with you this evening, but I'm keeping my cold at home.

Last week we heard a lot about money and budgets and statistics, but I want to assure the committee and the neighbors that while more money in this time of shrinking budgets is nice – IT IS the parents and students that we really want!

There was a nice younger couple that spoke last week, Jen and Tam (I'm hoping I have the names right), and they talked about being parents at Woodside Parent Nursery School and cleaning toilets as part of the co-op duties.

I have cleaned those very same toilets so I know that Tam and Jen are the parents I want in my district. Parents dedicated to their children's education and willing to do just about anything to make sure their children have the best educational experience.

As a Board Member, I particularly love co-op parents, because I know that they are leaders and because they care so much and will go on to be our PTA Presidents and Site Council Members and members of our EducationFoundation.

Our district, which is a beautiful microcosm of California, is doing very well and has improved greatly in the last 3 years, and our active parents have made this happen by strengthening our schools and our district as a whole. It is essential that our district continues to reflect our varied communities that surround us and that we continue to draw strong and giving parents.

Thank you.

Hillary Paulson
3733 Country Club Drive
Redwood City, CA 94061

Susie Peyton

I am a member of the Financial Advisory Committee for the Redwood City School District. There are financial benefits for the petitioners if the transfer is granted.

Jan Christensen (Superintendent, Redwood City School District)

Ms. Christensen read a written communication that was sent to her by a parent in the Redwood City District, Sarah Blatner, who was not able to attend the meeting. That statement is produced below.

> *My name is Sarah Blatner. Our family lives in Redwood City on Stockbridge, two blocks from the area involved in the petition. I have heard that one of the reasons for the petition is that the people who live in that area consider Menlo Park to be their town.*
>
> *People have a choice. You can focus your life in MP or in RWC. If their kids went to Redwood City schools, their life would be focused in RWC. They have made the choice of MP probably by sending their kids to MP private schools. Our kids go to Redwood City schools and our lives are based in Redwood City.*
>
> *I have heard another issue is that they want their kids to play on sports teams with their friends from school. I have actually found it to be great that our kids play with kids from all over (public and private schools). Our son has really benefited from this as a freshman at Woodside High School. He knows kids from all different parts of his life – soccer, baseball, school, church, Tae Kwon Do, various camps he has attended, preschool. These kids went to all different schools – private, RWC, Menlo Park, Portola Valley, Woodside Elementary and they are now at Woodside High School.*
>
> *When our oldest was in kinder, I called Las Lomitas to see if they could go to that school. The bus stopped right across Stockbridge from our driveway. I was told "no." They didn't even have room for all the kids in their district. My friend, Sylvia, tried to move Woodside Hills from RWC back in 2001 or 2002. Her effort failed. If this current effort succeeds, what will stop other areas from trying also? A precedent will be set. It does matter what they do. We will all suffer by higher taxes from the bonds and other issues brought up by RCSD.*
>
> *I respectfully ask that this petition be denied.*
>
> *Sarah Blatner*

David Tambling

We are bursting at the seams in Las Lomitas. The logic that the petitioners are using could also be applied to all of the other areas that are on the boundaries of the district.

Virginia Chang-Kiraly

Involvement by parents is what makes community. People who live in the Ladera area drive across the 280 freeway to participate in the Las Lomitas Elementary District and the Sequoia Union High School District. Involvement, not where you live, is what makes community.

Committee Discussion

After listening to all individuals who wanted to speak, the Committee discussed whether to have its next meeting on October 13 or October 20, and chose the latter date. The Committee directed the Secretary to provide the appropriate public notice of the meeting and invited all interested parties to attend.

Adjournment

The meeting was adjourned at 9:30 p.m.

San Mateo County Committee on School District Organization

Minutes of Meeting of November 17, 2009

Date: November 17, 2009

Place: San Mateo County Office of Education

Committee Members Present: Jack Coyne, Carolyn Livengood, Heather McAvoy, Dave Pine, George Robinson, Robert Stelzer, Melchior Thompson, Rudie Tretten, and Jacqueline Wallace-Greene

* *Note*: Dave Pine joined the meeting at 7:58 pm.

Committee Members Absent: Emanuele Damonte and Lois Frontino

Committee Staff Present: Peter Burchyns, Committee Secretary and Tim Fox, Deputy County Counsel/Legal Advisor to the Committee

Petitioners Present: John Cardozo, Royal Farros, Frank Limon, Michael McNerney, Tam Phung, Jean Rigg and Diane Rothe

Present from the Las Lomitas School District: Eric Hartwig, Superintendent and Carolyn Chow, Business Manager

Present from the Redwood City School District: Jan Christensen, Superintendent; Raul Parungao, Chief Business Official; Naomi Hunter, Director of Communication; Dennis McBride, Trustee; Alisa MacAvoy, Trustee; Hilary Paulson, Trustee; Claire Cunningham, Deputy County Counsel

1. Call to Order

Chairperson Robert Stelzer called the meeting to order at 7:30 pm.

2. Approval of Agenda

After a motion by Rudie Tretten, the Committee approved the agenda by a vote of 8-0 (member Dave Pine not yet present).

3. Approval of Minutes of October 20, 2009

After a motion by Rudie Tretten and a second by Melchior Thompson, the Committee voted 8-0 to approve the minutes of October 20, 2009, as submitted (member Pine not yet present).

4. Public Comments

Chairperson Stelzer stated that cards had been received from nine members of the public who wished to address the Committee, and that he would call first those individuals wishing to speak in favor of the petition, followed by those wishing to speak in opposition to it.

Mike McNerney, a petitioner, informed the Committee that Chief Petitioner George Mallinckrodt was unable to attend the meeting. Mr. McNerney stated that the petitioners had invested a lot of time in preparing their petition to address the eight (sic) conditions in the Education Code, and that the petition focused on those. He stated that in the last meeting a new condition, involving the setting of precedents, came up and he contended that it was unjust, unfair and unconstitutional to introduce, in an ex post facto manner, the issue of precedents since that is not one of the conditions listed in the Education Code. Mr. McNerney also stated that it was a flawed presumption that children in the area covered by the petition would in the future attend Redwood City schools. He noted that they have not done so in the past, and that at present all school-age children in the area attend private schools, further adding that they all do so in Menlo Park, not Redwood City.

Tam Phung, a petitioner, addressed the Committee and stated that he is now looking for a private school for his four-year old. He said that his friends are in Menlo Park and Woodside and that his community, church, and family life are not dictated by school boundaries. He contended that the neighborhood is isolated by traffic and that the petition constitutes a special case because the area is cut off by Alameda de las Pulgas. He stated that parents will send their children to private schools in Menlo Park if they are not allowed to go to Las Lomitas.

John Cardozo, a petitioner, addressed the Committee and stated that community is the issue, and community is where you spend your time. As an example he cited a recent incident when he went to a coffee shop near La Entrada School in Las Lomitas and met people he knew, including a student from Las Lomitas whom he had coached in youth soccer. He noted that concerns had been expressed about setting a precedent, but that precedent was irrelevant because the Committee is tasked with looking at each issue and weighing it on its own merits. He asked the Committee not to change the rules at the last minute.

Petitioner Jean Rigg addressed the Committee and stated that she would be very brief because the previous speakers had said it all and she had nothing to add.

Petitioner Royal Farros addressed the Committee and stated that the information provided by Sherree Brown, Interim Associate Superintendent of Fiscal and Operational Services at the County Office of Education, which was included with the Agenda materials, confirmed that there would be no financial impacts on the districts. He stated that the Stockbridge transfer shows how community works and added that petitioners are only trying to fix what is broken.

Jan Christensen, Superintendent of the Redwood City School District, addressed the Committee and stated that her district opposes the transfer. The district is concerned about finances because the state's financial situation is dire. The district has lost millions from its budget and the state budget deficit is $7-8 billion. She stated that $94,000 in lost property tax revenue is a big loss and that they cannot assume the state will backfill the loss. She added that Redwood City grants inter-district transfers to students who wish to leave, but that Las Lomitas does not grant

transfers to students wanting to come in, based upon a lack of space. Ms. Christensen stated that people buy homes knowing in which school district they are located. She concluded by requesting that the Committee make its findings of fact very clear, if it grants the petition.

Hilary Paulson, a trustee of the Redwood City District, addressed the Committee and stated that precedent was a major item of discussion at the Committee's previous meeting. She stated that precedent is important because the district has been faced with nine petitions since 1974, asking to transfer territory to another district; in some cases, there were multiple attempts to remove the same area. She noted that the County Committee on School District Organization is responsible for the future of education in San Mateo County, and added that the Committee can look at school boundaries without a petition.

Dennis McBride, a trustee of the Redwood City District, told the Committee that the district faces this issue all the time from people within the district who live on the boundaries between schools within the Redwood City District, one of which has a much higher API than the other. These people want to be moved to the attendance area of the school with higher scores. He added that there may be more children in Woodside Heights in the future and also stated that the district wanted these types of parents in the district.

Alisa MacAvoy, a trustee of the Redwood City District, addressed the Committee. (Note: Committee member Dave Pine joined the meeting at 7:58 pm, during Ms. MacAvoy's remarks). Ms. MacAvoy stated that the district strongly opposes the petition, that $94,000 is a significant amount of property tax revenue, and that if this petition is approved there will be many more petitions filed and that the district will have to devote significant time and resources to responding to them. She added that the district wants parents like those in Woodside Heights and noted that the Redwood City District has several schools of choice, including Orion, Adelante, North Star and the Selby Lane International Baccalaureate (IB) Program. She further noted that if people can drive their children to private schools, they can drive them to public schools within Redwood City.

There being no other members of the public wishing to address the Committee, Chairperson Stelzer declared the Public Comments section of the meeting closed.

5. Election Results

Committee Secretary Peter Burchyns reported that the District Governing Board Representatives to the County Committee on School District Organization met on November 16, 2009, to elect six Committee members to new four-year terms of office that will begin on December 1, 2009. He stated that three incumbents (George Robinson, Melchoir Thompson and Robert Stelzer) were re-elected and that three new members were also elected: Mark Hudak, a trustee in the San Mateo-Foster City District; Hilary Paulson, a trustee in the Redwood City District; and Philip Weise, a trustee in the South San Francisco Unified District.

6. Reports

a. *Response to Committee Inquiry Regarding Criteria*

Deputy County Counsel, Tim Fox, who serves as legal counsel to the Committee, reported to the Committee about his investigation of the criteria used by other County Committees in making decisions on transfer of territory petitions.

Mr. Fox began by stating that in his role of legal advisor, he gives advice to the Committee and then the Committee decides what weight to give his interpretations.

Mr. Fox then distributed copies of a memo to the Committee, dated November 17, 2009, and provided a brief oral summary of key points. The complete memo is found as Attachment A to these minutes; that memo is to be regarded as advice to the Committee, and not as a direction.

b. *Response to Committee Inquiry on Prior Petitions*

The Committee Secretary reported that his research of the Committee's files over the period 1994-2009, as directed by the Committee, revealed records of eight petitions (including the present one). In addition, he noted that in 1994, at the direction of the State Board of Education, the Committee conducted a comprehensive countywide unification study but at the conclusion of that study did not recommend any changes. He added that there may have been other petitions whose records were not found.

c. *Response to Committee Inquiry on Impact of Finances*

The Committee directed the Secretary to have staff at the County Office analyze the potential financial impact of the proposed transfer of territory on the two districts, if the Committee were to approve the petition.

The analysis revealed that Las Lomitas would annually gain $94,000 in property taxes and $13,684 in parcel taxes. Redwood City would be held harmless since the state would backfill the loss of the property taxes. It was noted that this analysis was based upon current conditions as of the present date and that could not guarantee that those conditions would hold in the future. (See Attachment B for details.)

7. Discussion, Deliberations, Action and/or Direction on EC's 35753 Criteria

The Committee proceeded to address the matter of whether the petition substantially met each of the nine conditions found in Education Code Section 35753. The Committee agreed to take these up in order, if there was substantial agreement among the Committee members on that condition; if Committee members need further discussion, it was agreed that the item would be set aside for further discussion later in the meeting.

Committee member Carolyn Livengood stated that she would recuse herself from the discussion and from voting, owing to the fact that she had not been present at all the Public Hearings and other meetings. Thus, there would be eight (8) Committee members voting.

Condition 1: The reorganized districts will be adequate in terms of the number of pupils enrolled.

In discussing this matter, the Committee noted that Las Lomitas had contended that it would become overcrowded in the future. The Committee also noted that no students living in the area proposed for transfer currently attended the Redwood City District and that the number of new students who might enroll in Redwood City would be small.

A motion to find that the petition substantially met condition #1 passed by a majority of the quorum.

Yes – 7: Coyne, McAvoy, Pine, Robinson, Thompson, Tretten, Wallace-Greene
No – 0
Abstain – 1: Stelzer

Condition 2: The districts are each organized on the basis of substantial community identity.

The Committee set this condition aside for later discussion.

Condition 3: The proposal will result in an equitable division of property and facilities of the original district or districts.

The Committee noted that there were no properties or facilities belonging to either district located in the area covered by the petition.

A motion to find that the petition substantially met condition #3 passed by a majority of the quorum.

Yes – 7: Coyne, McAvoy, Pine, Robinson, Thompson, Tretten, Wallace-Greene
No – 0
Abstain – 1: Stelzer

Condition 4: The reorganization of districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

Committee member Thompson noted that the fact that there are no students in the area proposed for transfer who are attending school in the Redwood City District makes this a non-issue; also, the numbers are too small to be significant.

Committee member McAvoy asked whether the Committee should consider socio-economic (SES) discrimination. Mr. Fox noted that the Committee could use its discretionary function to discuss SES.

A motion to find that the petition substantially met condition #4 passed by a majority of the quorum.

Yes – 6: Coyne, Pine, Robinson, Thompson, Tretten, Wallace-Greene
No – 1: McAvoy

Abstain – 1: Stelzer

Condition 5: Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Committee member McAvoy noted that any transfer of territory from a revenue limit district to a basic aid district, as is the case here, increases costs to the state.

Committee member Pine stated that the numbers are small and that $94,000 is not significant to the state.

A motion to find that the petition substantially met condition #5 passed by a majority of the quorum.

Yes – 5: Coyne, Pine, Robinson, Stelzer, Thompson
No – 3: McAvoy, Tretten, Wallace-Greene

Condition 6: The proposed reorganization will continue to promote sound educational performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

Committee member Tretten noted that the Las Lomitas Superintendent contended that over time the number of new students coming to the district from the area proposed for transfer, in combination with other enrollment growth in the district, could have a significant impact on the district.

Committee member Wallace-Greene noted that Redwood City claims it will lose $94,000 in property taxes, and that will hurt programs.

Committee member Thompson stated that the state will backfill the loss of property taxes.

Committee member Wallace-Greene noted the loss of parcel taxes from those homes.

Committee member Thompson stated that only a few households were involved.

Committee member Wallace-Greene contended it was a considerable amount.

Committee member McAvoy stated that she was struck by the disparity in per pupil funding between Redwood City and Las Lomitas, and that $55 per parcel could be a lot, depending on an individual's judgment.

Chairperson Stelzer noted that condition 5 deals with the impact upon the state, whereas condition 6 deals with the impact on the districts.

A motion to find that the petition substantially met condition #6 failed to attain a majority of the quorum.

Yes – 4: Coyne, Pine, Robinson, Thompson
No – 4: McAvoy, Stelzer, Tretten, Wallace-Greene

Condition 7: Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Committee member Thompson stated that Las Lomitas sees a potential impact some years hence, but that immediate impact is not an issue. He added that he did not find the concern about future impact persuasive because, from his perspective as a professional dealing with location analysis and site selection, it is not possible to make predictions that far in advance.

Committee member Tretten stated that Las Lomitas already has a facilities squeeze.

Committee member Pine stated that Las Lomitas has already reached capacity and that there is a potential problem related to additional students. He noted that Las Lomitas is a small district and that these are real numbers.

Committee member Coyne stated that the key terms in the condition are the words "insignificant" and "incidental". He said that 4-15 students is an insignificant number even in a small district, and that this additional population would be incidental in this context.

Chairperson Stelzer asked Las Lomitas Superintendent Hartwig if he would like to comment on this issue. Superintendent Hartwig stated that the addition of 15 students would require additional staff and classroom space. He also stated that the district is now at 105% of capacity and that additional students are a problem to accommodate within the existing space.

A motion to find that the petition substantially met condition #7 failed to attain a majority of the quorum.

Yes – 2: Coyne, Thompson
No – 5: McAvoy, Pine, Robinson, Tretten, Wallace-Greene
Abstain – 1: Stelzer

Condition 8: The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

Committee member Pine stated that in his opinion, the motivation of the petitioners is where their children will go to school.

Committee member Coyne stated that he looked at *Zillow.com* to compare the home prices on Stockbridge Avenue with those of the homes on the neighboring streets covered by the petition. He said that there were some larger homes on Stockbridge with higher prices but that homes of comparable sizes were comparably priced.

Committee member Tretten commented that the Committee could not look inside people's minds.

Committee member Thompson stated that when this condition was created the state may have been thinking about cases in which developers were searching for the best school district.

Chairperson Stelzer stated that he believed a transfer of the territory would make a difference in the value of the homes, but that did not necessarily mean that was the motivation of the petitioners.

A motion to find that the petition substantially met condition #8 passed by a majority of the quorum.

Yes – 5: Coyne, Pine, Stelzer, Thompson, Wallace-Greene
No – 3: McAvoy, Robinson, Tretten

Condition 9: The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any district affected by the proposed reorganization.

Committee member McAvoy stated that she found it troubling to transfer high value homes into Las Lomitas, which is a wealthy, basic aid district. She stated that this did not seem to be equitable resource allocation.

Committee member Thompson stated that condition #9 is not about equity.

Tim Fox stated that this point can be argued either way. Basic aid districts exceed their revenue limits via local property taxes. Increasing their property may or may not be sound fiscal management.

In response to a request from the Committee, Raul Parungao, CBO of the Redwood City District, stated that Redwood City receives approximately 60% of its revenue limit from local property taxes and 40% from the state.

Committee member Thompson stated that the area proposed for transfer is small and that this is not a big issue.

Committee member Pine stated that the transfer would not improve the financial status of Las Lomitas and that it would slightly lower the average funding per student from the current level of about $14,000 but this would not be materially adverse.

A motion to find that the petition substantially met condition #9 failed to attain a majority of the quorum.

Yes – 4: Coyne, Pine, Robinson, Thompson
No – 4: McAvoy, Stelzer, Tretten, Wallace-Greene

Condition 2: The districts are each organized on the basis of substantial community identity.

Having addressed each of the other conditions, the Committee returned to the consideration of the second condition.

Chairperson Stelzer noted that the petitioners' beliefs about what constitutes community identity is not the sole determinant of community identity.

Committee member Thompson stated that representatives of the Redwood City District talked about issues of school boundaries within the districts, in cases where parents on the boundary between school A and school B want to be moved from one school's attendance area to the next, and then having parents on the next street over wanting to be moved, and so forth. He contended that this is not the case here because there is no immediately adjacent street due to the fact that Woodside High School is next to the territory covered by the petition. He noted that perhaps the County Committee should have considered these two streets as well when it approved the Stockbridge transfer in 1999.

Committee member Thompson further stated that in his professional opinion these two cul-de-sac streets will never see themselves as part of the Redwood City District. There are no adjacent streets wanting to move and Alameda de las Pulgas is a psychological barrier to movement. He concluded by noting that since 1974 there have been nine petitions to transfer territory from the Redwood City District and further added that this petition was not analogous to the Pacific Parc petition to transfer territory from Ravenswood to Menlo Park, which the Committee denied at few years ago.

Committee member Wallace-Greene stated that many school boundaries existed before the area was developed.

Mr. Fox advised the Committee that every inch of territory in California was originally put into some school district. Thus, it is common for school district boundaries to pre-date communities. He also noted that the State Board of Education has taken the position that the existing boundaries have some precedence.

Committee member Thompson stated that the two cul-de-sacs in the area covered by the petition could be transferred to Las Lomitas as a political act by the Committee.

Chairperson Stelzer contended that the existing boundaries do not necessarily define community identity.

Committee member McAvoy stated that her observation, based on visits to the area, is that Woodside Heights is similar to the Selby Lane neighborhood in the Redwood City District.

Committee member Tretten stated that the automobile destroys the older notion of community, noting that we feel at home in a number of "communities" in different geographical areas – we live in one area, work in another, etc. Thus, we have a larger sense of community.

Chairperson Stelzer asked the Committee to consider the question of whether there would be community identity if the boundary were changed.

Committee member Thompson noted that one issue was that of community schools versus school choice facilitated by the automobile.

A motion to find that the petition substantially met condition #2 passed by a majority of the quorum.

Yes – 5: Coyne, Pine, Robinson, Stelzer, Thompson
No – 3: McAvoy, Tretten, Wallace-Greene

Recess

At 10:20 pm, the Chair declared a recess of ten minutes. The Committee reconvened at 10:30 pm.

8. Discuss and/or Take Action on the Woodside Heights Petition

The Chair asked that a motion on whether to approve the petition be made; if seconded, the Committee would then proceed by discussing the matter and taking a vote.

Committee member Tretten moved that the Committee deny the petition and Committee member McAvoy seconded the motion.

The Chair noted that six motions to find that the petition substantially met a specific condition (conditions 1, 2, 3, 4, 5 and 8) did pass by a majority; he further stated that three other motions (on conditions 6, 7 and 9) had failed to attain a majority.

Committee member McAvoy stated that socio-economic diversity is an issue and that it would be reduced by moving the territory.

Committee member Coyne stated that the Committee should look at all petitions as unique requests and consider all factors. The Committee should ask whether the districts would be solid if the territory were transferred. If the answer is “yes”, the Committee should approve the petition; if the answer is “no”, or if other problems would be created, the Committee should deny the petition.

Committee member Coyne also noted that boundaries were drawn in a vacuum and then communities grew up around them. County Committees on School District Organization were created to look at whether the boundaries still make sense. The San Mateo County Committee has a good track record of looking at each petition on its own merits. He concluded by stating that he thought the Committee should approve the petition.

Committee member Thompson noted that “equity” means a lot of things to a lot of people. He raised the question of whether the school district exists for the community, or is the community the property of the school district. He stated that he thought equity would be satisfied by approval of the petition.

Committee member Pine noted that the State Board of Education gives deference to existing boundaries unless local needs dictate otherwise. He added that in his view it would be good to have the students attend school in Las Lomitas but that he did not see a compelling reason to make a change.

There being no further discussion, the Chair called for a vote on the motion to deny the petition.

The motion to deny the petition attained a majority of the quorum and thus passed.

Yes – 5: McAvoy, Pine, Robinson, Tretten, Wallace-Greene
No – 2: Coyne, Thompson
Abstain – 1: Stelzer

9. Establish Future Meeting Dates

It was noted that the next meeting of the Committee would be on December 8, 2009, at 7:00 pm at the County Office of Education. This will be the Committee's annual organizational meeting.

10. Adjournment

There being no further business, the meeting was adjourned.

GOVERNING BOARD

LAS LOMITAS ELEMENTARY SCHOOL DISTRICT

DATE: 7/15/98

AGENDA NUMBER: **11. c .**

AGENDA CATEGORY: Information

TOPIC: Request to Change District Attendance Boundary

PREPARED BY: Mary Ann Somerville, Superintendent

Stockbridge Avenue in Atherton is the boundary line between the Las Lomitas and Redwood City Elementary School Districts. To the east of the Alameda de las Pulgas, children from the evennumbered parcels (the "north" side of the street) attend Redwood City schools, and those from the odd-numbered (the "south" side of the street) attend school in Las Lomitas. Prior to 1997, it had been assumed that the parcels west of the Alameda on both sides of Stockbridge were in the LLESD.

In March 1997, however, Ed Jennings of the San Mateo County Public Works Department in formed the District that the even-numbered parcels in the 2100 block of Stockbridge are in the Redwood City attendance area. A sale of property had prompted the official inquiry, and the County's parcel maps show the homes in question to be part of the Town of Woodside but located in the Redwood City School District. Since March of 1997, Mrs. Metzler has directed all in quiries about Stockbridge addresses to Mr. Jennings for confirmation.

Part of the confusion over school district boundaries apparently arises from a transfer of the parcels in question from Redwood City to the Town of Woodside in the mid-1970's. It was assumed by the residents that this action included a transfer to the Las Lomitas school district. No official records to support this understanding have been found. (A separate action by the County Committee on School District Organization would have to have been taken.)

On June 10, 1998, Diane Chessler of Alain Pinel addressed the Board with her concerns about school district designation for the 2100 block of Stockbridge. She alleges the District has given false information which is subjecting her brokerage firm to civil suit. (She had obtained a copy of the district map in 1996, prior to the 1997 revision.)

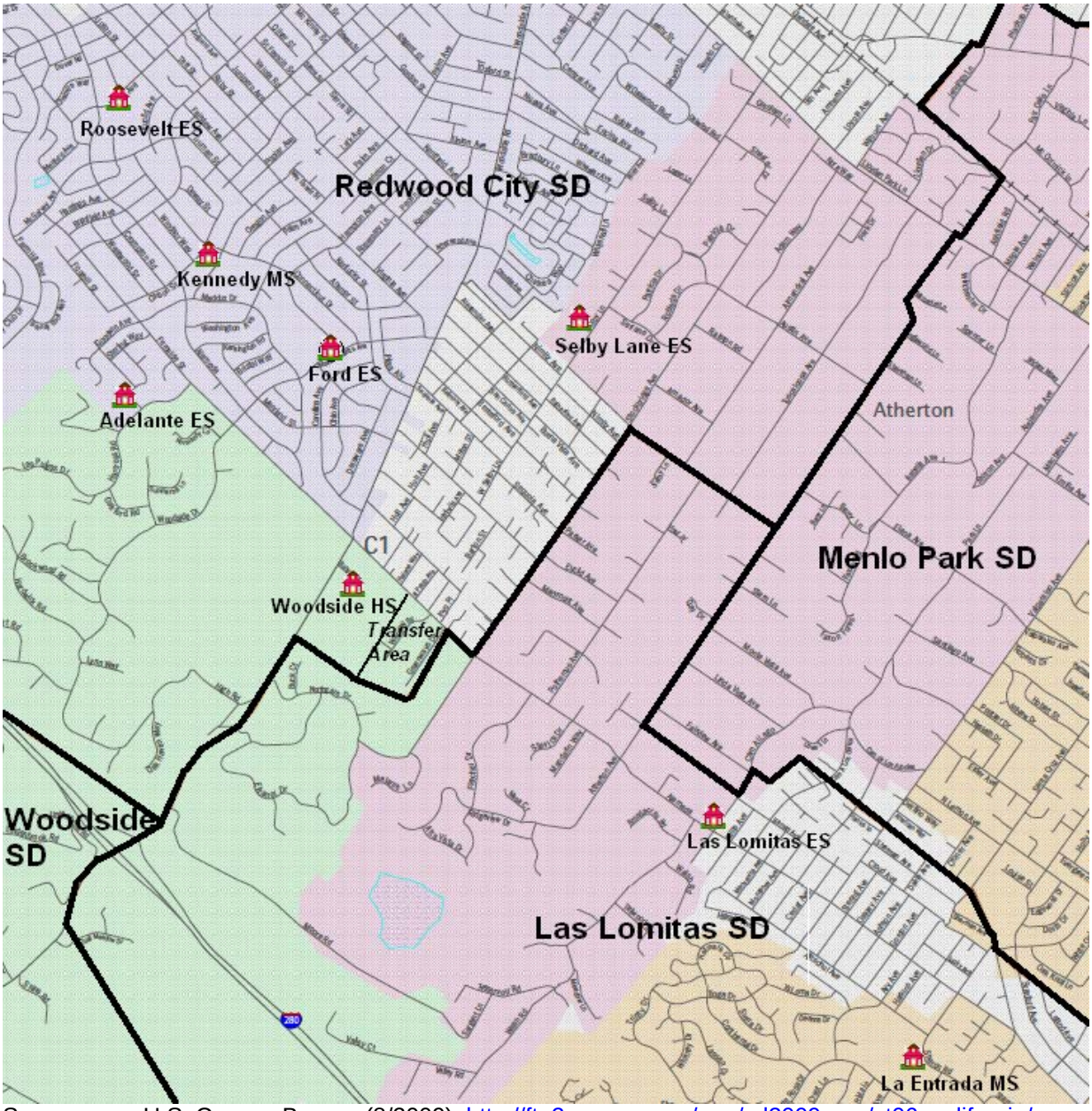
Mrs. Chessler had met previously with the superintendent and had been informed the District could not change the boundaries unilaterally. She was given information at that time regarding the process for requesting a change in boundary from the San Mateo Committee on School Dis trict Organization. Mrs. Chessler has met with Stockbridge residents, and they are planning to petition the Committee.

Meanwhile, it has been determined that children from one family on Stockbridge have been at tending Las Lomitas schools erroneously for several years. Subsequent conversations with the Redwood City administration have resulted in an agreement to allow these children to continue in the LLESD on an interdistrict transfer agreement.

The Superintendent has been in contact with John Mehl (associate superintendent at the San Mateo County Office of Education and liaison to the Committee) and with Bob Stelzer (chairman of the Committee). She remains in regular contact with Mrs. Chessler, as does Mr. Mehl.

The entire issue will now be in the hands of the Committee on School District Organization unless the members of the Board wish to petition the County Committee on its own behalf.

School Districts and Schools Near Area Proposed for Transfer



Source map: U.S. Census Bureau (8/2009), http://ftp2.census.gov/geo/sd2009_rev/st06_california/maps/

Schools and Distances from Transfer Areas (distances provided by appellants)

Redwood City School District

Henry Ford Elementary (1.0 miles)
Adelante Elementary (1.3 miles)
Selby Lane Elementary (1.4 miles)
Roosevelt Elementary (2.0 miles)
John F. Kennedy Middle (1.5 miles)

Las Lomitas School District

Las Lomitas Elementary (0.8 miles)
La Entrada Middle (2.0 miles)

Education Code Sections Cited in Agenda Item

35500. It is the intent of the Legislature to utilize the organization of districts as they existed on January 1, 1981, and local educational needs and concerns shall serve as the basis for future reorganization of districts in each county.

35705. Within 60 days after receipt of the petition, the county committee shall hold one or more public hearings thereon at a regular or special meeting in each of the districts affected by the petition. Notice of the public hearing shall be given at least 10 days in advance thereof to not more than three persons designated in the petition as the chief petitioners, to the governing board of all districts affected by the proposed reorganization, and to all other persons requesting notice of the hearing.

35706. (a) Within 120 days of the commencement of the first public hearing on the petition, the county committee shall recommend approval or disapproval of a petition for unification of school districts or for the division of the territory of an existing school district into two or more separate school districts, as the petition may be augmented, or shall approve or disapprove a petition for the transfer of territory, as the petition may be augmented.

(b) The 120-day period for approving or disapproving a petition pursuant to Section 35709 or 35710 shall commence after certification of an environmental impact report, approval of a negative declaration, or a determination that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

35709. If the following conditions are met, the county committee may approve the petition and order that the petition be granted, and shall so notify the county board of supervisors:

(a) The county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 are substantially met, and:

(b) Either:

(1) The petition is to transfer uninhabited territory from one district to another and the owner of the territory, or a majority of the owners of the territory, and the governing boards of all school districts involved in the transfer consent to the transfer; or

(2) The petition is to transfer inhabited territory of less than 10 percent of the assessed valuation of the district from which the territory is being transferred, and all of the governing boards have consented to the transfer.

35710. (a) For all other petitions to transfer territory, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 substantially are met, the county committee may approve the petition and, if approved, shall notify the county superintendent of schools who shall call an election in the territory of the districts as determined by the county committee, to be conducted at the next election of any kind in accordance with either of the following:

(1) Section 1002 of the Elections Code and Part 4 (commencing with Section 5000) of Division 1 of Title 1.

(2) Division 4 (commencing with Section 4000) of the Elections Code.

(b) A county committee also may approve a petition to form one or more school districts if the requirements of subdivision (a), and the following conditions, are met:

(1) Each county superintendent of schools with jurisdiction over an affected school district elects to grant approval authority to the county committee on school district organization for which he or she is secretary pursuant to Section 4012, and that county committee chooses to accept that authority.

(2) The governing board of each of the affected school districts consents to the petition.

(3) The secretary of the county committee designated as the lead agency pursuant to Section 35710.3 or subdivision (a) of Section 35520.5 enters into an agreement on behalf of the county committee for any or all affected school districts to share among those districts the costs of complying with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A petition to form one or more school districts that meets the conditions described in subdivision (b), but is not approved by the county committee, shall be transmitted to the state board pursuant to subdivision (a) of Section 35707 and heard by the state board pursuant to Section 35708. The state board, rather than the county committee, shall be the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for each petition transmitted pursuant to this subdivision, including a petition disapproved by the county committee after determining the project is exempt from the California Environmental Quality Act pursuant to paragraph (5) of subdivision (b) of Section 21080 of the Public Resources Code.

35710.5. (a) An action by the county committee approving or disapproving a petition pursuant to Section 35709, 35710, or 35710.1 may be appealed to the State Board of Education by the chief petitioners or one or more affected school districts. The appeal shall be limited to issues of noncompliance with the provisions of Section 35705, 35706, 35709, or 35710. If an appeal is made as to the issue of whether the proposed transfer will adversely affect the racial or ethnic integration of the schools of the districts affected, it shall be made pursuant to Section 35711.

(b) Within five days after the final action of the county committee, the appellant shall file with the county committee a notice of appeal and shall provide a copy to the county superintendent of schools, except that if the appellant is one of the affected school districts it shall have 30 days to file the notice of appeal with the county committee and provide a copy to the county superintendent. Upon the filing of the notice of appeal, the action of the county committee shall be stayed, pending the outcome of the appeal. Within 15 days after the filing of the notice of appeal, the appellant shall file with the county committee a statement of reasons and factual evidence. The county committee shall then, within 15 days of receipt of the statement, send to the State Board of Education the statement and the complete administrative record of the county committee proceedings, including minutes of the oral proceedings.

(c) Upon receipt of the appeal, the State Board of Education may elect either to review the appeal, or to ratify the county committee's decision by summarily denying review of the appeal. The board may review the appeal either solely on the administrative record

or in conjunction with a public hearing. Following the review, the board shall affirm or reverse the action of the county committee, and if the petition will be sent to election, shall determine the territory in which the election is to be held. The board may reverse or modify the action of the county committee in any manner consistent with law.

(d) The decision of the board shall be sent to the county committee which shall notify the county board of supervisors or the county superintendent of schools pursuant to Section 35709, 35710, or 35710.1, as appropriate.

35732. Plans and recommendations may include a provision specifying the territory in which the election to reorganize the school districts will be held. In the absence of such a provision, the election shall be held only in the territory proposed for reorganization.

35753. (a) The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:

(1) The reorganized districts will be adequate in terms of number of pupils enrolled.

(2) The districts are each organized on the basis of a substantial community identity.

(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(4) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

(5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

(7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

(9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

(10) Any other criteria as the board may, by regulation, prescribe.

(b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

35756. The county superintendent of schools, within 35 days after receiving the notification provided by Section 35755, shall call an election, to be conducted at the next election of any kind in the territory of districts as determined by the state board, in accordance with either of the following:

(a) Section 1002 of the Elections Code and Part 4 (commencing with Section 5000).

(b) Division 4 (commencing with Section 4000) of the Elections Code.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of the Synergy Charter School Petition, Which Was Denied by the Pittsburg Unified School District and the Contra Costa County Board of Education.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUES

The Synergy Charter School (SCS) charter petition was denied by the Pittsburg Unified School District (Pittsburg USD) governing board on December 15, 2010. SCS submitted an appeal to the Contra Costa County Board of Education (Contra Costa CBE) that was denied on February 16, 2011.

Pursuant to *Education Code (EC)* Section 47605(j), petitioners for a charter school that have been denied at the local level may petition the State Board of Education (SBE) for approval of the charter, subject to certain conditions. SCS petitioners submitted their petition on appeal for authorization by the SBE.

RECOMMENDATION

California Department of Education Recommendation

The California Department of Education (CDE) recommends that the SBE hold a public hearing and deny the petition to establish the SCS under the oversight of the SBE as the budget and cash flow statements submitted with the petition present an unrealistic financial plan and the petitioners are demonstrably unlikely to successfully implement the program described in the petition. Details regarding the CDE recommendation are provided in Attachment 2.

Advisory Commission on Charter Schools Recommendation

The Advisory Commission on Charter Schools (ACCS) considered the SCS petition at its July and September 2011 meetings. The ACCS recommends that the SBE hold a public hearing and approve the petition to establish the SCS under the oversight of the SBE subject to the following provisions:

RECOMMENDATION (Cont.)

- The SBE Conditions on Opening and Operation as set forth in Attachment 1.
- Modifications to the charter in accordance with the CDE report as set forth in detail in Attachment 2.

A summary of the ACCS actions is provided in Attachment 6.

Should the SBE accept the ACCS recommendation, the CDE recommends that the SBE also adopt the following provisions standard to SBE authorization of charter schools:

- Specification of a five-year term beginning July 1, 2012, and ending June 30, 2017.
- Termination of the charter if the school does not begin operations between July 1 and September 30, 2012.

BRIEF HISTORY OF KEY ISSUES

The SCS petition proposes a site-based charter school serving pupils in grades six through twelve in the Pittsburg USD. The SCS petition describes an educational program centered on Project Based Learning, which is supported by research and successful implementation at other charter high schools. The proposed extended day schedule targets the needs of the intended pupil population by including focused attention on health and wellness, and college, career, and life planning. In addition, the petition proposes to provide pupils with a personalized learning program and mentoring.

SCS petitioners note multiple factors indicating that their targeted student population is at risk of not graduating from high school, including the fact that 50 to 70 percent of this student population has failed to meet proficiency standards as measured by Adequate Yearly Progress. Data regarding academic and demographic information for schools where students would otherwise most likely attend can be found in Attachment 2. SCS petitioners believe that a small-school setting, combined with project-based learning, extended time, and various support structures will provide students with more opportunities for academic success.

To form its recommendation, the CDE reviewed the SCS petition, results from statewide assessments, and the SCS budget and cash flow reports. The SCS charter petition describes an educational program likely to meet the needs of pupils within the community where the school is located, and the petition contains reasonably comprehensive descriptions of the 16 charter elements pursuant to *EC* Section 47605(b)(5). However, based on the materials reviewed, the CDE finds that the SCS petition does not meet all of the elements required under statute and regulation for the establishment of a charter school, as the budget and cash flow statements submitted

BRIEF HISTORY OF KEY ISSUES (Cont.)

with the petition present an unrealistic financial plan and the petitioners are demonstrably unlikely to successfully implemented the program described in the petition.

If the SBE approves the SCS petition, technical and substantive amendments are needed for clarification and to reflect SBE authorization, as described in the CDE review, provided in Attachment 2.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Currently, 31 charter schools operate under SBE authorization as follows:

- Three statewide benefit charters, operating a total of 13 schools
- One countywide benefit charter
- Seventeen charter schools, authorized on appeal after local or county denial

The SBE delegates oversight duties of these schools to the CDE.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, this school would receive apportionment funding under the charter school block grant funding model. Funding is based on the statewide average funding levels for each grade span (kindergarten through grade three, grades four through six, grades seven through eight, and grades nine through twelve). Calculations use revenue limits for unified, elementary, and high school districts.

ATTACHMENTS

Attachment 1: State Board of Education Conditions on Opening and Operation (2 Pages)

Attachment 2: California Department of Education Charter School Petition Review Form (48 Pages)

Attachment 3: Synergy Charter School Petition (210 Pages)
Due to technical limitations regarding the format of graphs and tables in the document, this attachment is not available for viewing on the CDE Web site. Electronic copies are available upon request by e-mailing CHARTERS@cde.ca.gov, and a printed copy is available for viewing in the SBE office. The document is also available at http://www.synergycharter.org/petition (Outside Source)

ATTACHMENTS (Cont.)

Attachment 4: Pittsburg Unified School District Findings for Denial and Petitioner's Response (42 Pages)

Attachment 5: Contra Costa County Board of Education Reasons for Denial and Petitioner's Response (29 Pages)

Attachment 6: Advisory Commission on Charter Schools Summary of Action (2 Pages)

STATE BOARD OF EDUCATION
CONDITIONS ON OPENING AND OPERATION

- **Insurance Coverage.** Prior to opening**,** (or such earlier time as school may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.
- **MOU/Oversight Agreement.** Prior to opening, either (a) accept an agreement with the State Board of Education (SBE), administered through the California Department of Education (CDE), to be the direct oversight entity for the school, specifying the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities; or (b) enter into an appropriate agreement between the charter school, the SBE (as represented by the Executive Director of the SBE), and an oversight entity, pursuant to the California *Education Code* (*EC*) Section 47605(k)(1), regarding the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities.
- **Special Education Local Plan Area Membership.** Prior to opening, submit written verification of having applied to a Special Education Local Plan Area (SELPA) for membership as a local educational agency and submit either written verification that the school is (or will be at the time pupils are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and the school that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider the school's pupils to be pupils of the school district in which the school is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA). Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of CDE staff following a review of either (1) the school's written plan for membership in the SELPA, including any proposed contracts with service providers; or (2) the agreement between a SELPA, a school district, and the school, including any proposed contracts with service providers.
- **Educational Program.** Prior to opening, submit a description of the curriculum development process the school will use and the scope and sequence for the grades envisioned by the school; and submit the complete educational program for pupils to be served in the first year including, but not limited to, a description of the curriculum and identification of the basic instructional materials to be used; plans for professional development of instructional personnel to deliver the curriculum and use the instructional materials; and identification of specific assessments that will be used in addition to the results of the Standardized Testing and Reporting (STAR) program in evaluating student progress. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of CDE staff.

- **Student Attendance Accounting.** Prior to opening, submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Fiscal Services Division.
- **Facilities Agreements.** Prior to opening, present written agreements (e.g., a lease or similar document) indicating the school's right to use the principal school sites and any ancillary facilities identified by the petitioners for at least the first year of each school's operation and evidence that the facilities will be adequate for the school's needs. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Facilities Planning Division.
- **Zoning and Occupancy.** Not less than 30 days prior to the school's opening, present evidence that each school's facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities. For good cause, the Executive Director of the SBE may reduce this requirement to fewer than 30 days, but may not reduce the requirement to fewer than 10 days. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Facilities Planning Division.
- **Final Charter.** Prior to opening, present a final charter that includes all provisions and/or modifications of provisions that reflect appropriately the SBE as the chartering authority and otherwise address all concerns identified by CDE and/or SBE staff, and that includes a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the SBE based primarily on the advice of the Charter Schools Division staff. Satisfaction of this condition is determined by the Executive Director of the SBE based primarily on the advice of the Director of the Charter Schools Division.
- **Processing of Employment Contributions.** Prior to the employment of any individuals by the school, present evidence that the school has made appropriate arrangements for the processing of the employees' retirement contributions to the California Public Employees' Retirement System (CALPERS) and the California State Teachers' Retirement System (CALSTRS).
- **Operational Date.** If any deadline specified in these conditions is not met, approval of the charter is terminated, unless the SBE deletes or extends the deadline not met. If the school is not in operation by September 30, 2012, approval of the charter is terminated.

Advisory Commission on Charter Schools
Summary of Action

The Advisory Commission on Charter Schools (ACCS) considered the Synergy Charter School (SCS) petition at its July and September meetings. A summary of actions taken are provided below.

July 28, 2011

The California Department of Education (CDE) presented the item and the recommendation to deny the SCS petition. The CDE discussed the fact that the Charter Schools Division worked with the petitioners to clarify questions regarding the budget, and the petitioners attempted to provide supplemental materials and revisions to the budget and cash flow statements. However, the CDE determined that those additions to the budget constituted material changes to the petition, and therefore, the CDE could not consider the additional material in its recommendation.

Much discussion followed regarding whether revisions to a petition could legally be considered by the ACCS or the State Board of Education (SBE) when taking action to approve or deny a charter on appeal. Input from CDE and SBE legal staff, the petitioners, representatives from the denying district and county, and the public were received.

ACCS Chair Brian Bauer moved to table consideration of the item until the September ACCS meeting in order to gain clarification on the definitions of material and technical revision. The motion was seconded by Commissioner Gary Davis, and the motion was passed unanimously.

September 28, 2011

The CDE presented clarification regarding material and technical amendments and recommended to the ACCS that the supplemental materials received from the SCS petitioners should not be considered as they represented material revisions to the petition. *Education Code* Section 47605(j) requires the SBE to review the petition that was submitted to the local and county boards; however, *California Code or Regulations, Title 5*, Section 11967(b)(4) allows a petitioner to describe any changes necessary to reflect the county office or the SBE as the chartering entity.

The CDE explained its position that some of the revisions of the cash flow and budget provided in the petition did address a change in authorizer, and were therefore permitted by regulation. However, in their totality, the CDE found that changes to improve the petition and to address findings made by the district and county boards of education were not allowable. Also, the CDE argued that the original petition lacked enough detail to determine if the budget and cash flow statements were sound and whether the petitioners had the fiscal capacity to operate the school.

The petitioners presented information, including evidence of a new back office provider. However, the CDE stated the evidence constituted material revisions that the local board and county did not have available when it made their decisions to deny the petition. Therefore, the CDE recommendation was to deny the petition and allow the local district and county an opportunity to review the new evidence.

Public input was received from the petitioners, representatives from the denying district and county, and members of the audience.

After lengthy discussion regarding whether the information provided by the petitioners constituted technical amendments or whether it addressed fiscal capacity issues that should be reconsidered locally, Commissioner Mark Ryan moved to recommend that the SBE approve the SCS petition with the conditions noted in Attachments 1 and 2 of the CDE staff report. The motion was seconded by Commissioner Davis, and by a vote of 5 to 3, the motion passed.

STATE BOARD OF EDUCATION
CONDITIONS ON OPENING AND OPERATION

- **Insurance Coverage.** Prior to opening**,** (or such earlier time as school may employ individuals or acquire or lease property or facilities for which insurance would be customary), submit documentation of adequate insurance coverage, including liability insurance, which shall be based on the type and amount of insurance coverage maintained in similar settings.
- **MOU/Oversight Agreement.** Prior to opening, either (a) accept an agreement with the State Board of Education (SBE), administered through the California Department of Education (CDE), to be the direct oversight entity for the school, specifying the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities; or (b) enter into an appropriate agreement between the charter school, the SBE (as represented by the Executive Director of the SBE), and an oversight entity, pursuant to the California *Education Code* (*EC*) Section 47605(k)(1), regarding the scope of oversight and reporting activities, including, but not limited to, adequacy and safety of facilities.
- **Special Education Local Plan Area Membership.** Prior to opening, submit written verification of having applied to a Special Education Local Plan Area (SELPA) for membership as a local educational agency and submit either written verification that the school is (or will be at the time pupils are being served) participating in the SELPA, or an agreement between a SELPA, a school district that is a member of the SELPA, and the school that describes the roles and responsibilities of each party and that explicitly states that the SELPA and the district consider the school's pupils to be pupils of the school district in which the school is physically located for purposes of special education programs and services (which is the equivalent of participation in the SELPA). Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of CDE staff following a review of either (1) the school's written plan for membership in the SELPA, including any proposed contracts with service providers; or (2) the agreement between a SELPA, a school district, and the school, including any proposed contracts with service providers.
- **Educational Program.** Prior to opening, submit a description of the curriculum development process the school will use and the scope and sequence for the grades envisioned by the school; and submit the complete educational program for pupils to be served in the first year including, but not limited to, a description of the curriculum and identification of the basic instructional materials to be used; plans for professional development of instructional personnel to deliver the curriculum and use the instructional materials; and identification of specific assessments that will be used in addition to the results of the Standardized Testing and Reporting (STAR) program in evaluating student progress. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of CDE staff.

- **Student Attendance Accounting.** Prior to opening, submit for approval the specific means to be used for student attendance accounting and reporting that will be satisfactory to support state average daily attendance claims and satisfy any audits related to attendance that may be conducted. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Fiscal Services Division.
- **Facilities Agreements.** Prior to opening, present written agreements (e.g., a lease or similar document) indicating the school's right to use the principal school sites and any ancillary facilities identified by the petitioners for at least the first year of each school's operation and evidence that the facilities will be adequate for the school's needs. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Facilities Planning Division.
- **Zoning and Occupancy.** Not less than 30 days prior to the school's opening, present evidence that each school's facility is located in an area properly zoned for operation of a school and has been cleared for student occupancy by all appropriate local authorities. For good cause, the Executive Director of the SBE may reduce this requirement to fewer than 30 days, but may not reduce the requirement to fewer than 10 days. Satisfaction of this condition should be determined by the Executive Director of the SBE based primarily on the advice of the Director of the School Facilities Planning Division.
- **Final Charter.** Prior to opening, present a final charter that includes all provisions and/or modifications of provisions that reflect appropriately the SBE as the chartering authority and otherwise address all concerns identified by CDE and/or SBE staff, and that includes a specification that the school will not operate satellite schools, campuses, sites, resource centers or meeting spaces not identified in the charter without the prior written approval of the Executive Director of the SBE based primarily on the advice of the Charter Schools Division staff. Satisfaction of this condition is determined by the Executive Director of the SBE based primarily on the advice of the Director of the Charter Schools Division.
- **Processing of Employment Contributions.** Prior to the employment of any individuals by the school, present evidence that the school has made appropriate arrangements for the processing of the employees' retirement contributions to the California Public Employees' Retirement System (CALPERS) and the California State Teachers' Retirement System (CALSTRS).
- **Operational Date.** If any deadline specified in these conditions is not met, approval of the charter is terminated, unless the SBE deletes or extends the deadline not met. If the school is not in operation by September 30, 2012, approval of the charter is terminated.

California Department of Education
Charter School Petition Review Form
Synergy Charter School

<table>
<tr><th colspan="2">Table 1. Key Information Regarding Synergy Charter School</th></tr>
<tr><td>Grade Span and Build-out Plan</td><td>Synergy Charter School (SCS) proposes a site-based charter school serving pupils in grades six through twelve.

Below is the SCS five-year build out plan:
<table>
<tr><th>Grade</th><th>2010–11</th><th>2011–12</th><th>2012–13</th><th>2013–14</th><th>2014–15</th></tr>
<tr><td>6</td><td>75</td><td>100</td><td>100</td><td>100</td><td>100</td></tr>
<tr><td>7</td><td>75</td><td>100</td><td>100</td><td>100</td><td>100</td></tr>
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<tr><td>Total</td><td>225</td><td>300</td><td>400</td><td>500</td><td>700</td></tr>
</table></td></tr>
<tr><td>Location</td><td>The petitioners plan to locate within the boundaries of the Pittsburg Unified School District (Pittsburg USD) in Pittsburg, California. They have identified a potential site at 980 Garcia Avenue in Pittsburg.</td></tr>
<tr><td>Brief History</td><td>The SCS petitioners propose an educational program based in Project Based Learning delivered in an extended school day. The program also proposes that every pupil be assigned to a mentor teacher and that students receive support in an array of academic, social, and personal programs.</td></tr>
<tr><td>Lead Petitioners/ Governing Board</td><td>Sahar Akbarzadeh
Margie DiGiorgio-McKenzie, M. Ed., Co-Founder
Vel Snider
Cheryl Townsend, M. Ed., Co-Founder
Melissa Allison
Linda Ramsey, MFCC
Richard Tomlinson, MS CPA</td></tr>
</table>

Table 2. Summary of Required Charter Elements Pursuant to *Education Code* Section 47605(b)			
	Charter Elements Required Pursuant to *Education Code* Section 47605(b)	**Meets Requirements**	**Technical Amendments Necessary**
	Sound Educational Practice	Yes	Yes
	Ability to Successfully Implement the Intended Program	**No**	
	Required Number of Signatures	N/A	
	Affirmation of Specified Conditions	Yes	Yes
1	Description of Educational Program	Yes	
2	Measureable Pupil Outcomes	Yes	
3	Method for Measuring Pupil Progress	Yes	
4	Governance Structure	Yes	
5	Employee Qualifications	Yes	
6	Health and Safety Procedures	Yes	
7	Racial and Ethnic Balance	Yes	Yes
8	Admission Requirements	Yes	Yes
9	Annual Independent Financial Audits	Yes	Yes
10	Suspension and Expulsion Procedures	Yes	
11	Retirement Coverage	Yes	
12	Public School Attendance Alternatives	Yes	Yes
13	Post-employment Rights of Employees	Yes	
14	Dispute Resolution Procedures	Yes	
15	Exclusive Public School Employer	Yes	
16	Closure Procedures	Yes	
	Standards, Assessments, and Parent Consultation	Yes	Yes
	Employment is Voluntary	Yes	Yes
	Pupil Attendance is Voluntary	Yes	Yes
	Effect on Authorizer and Financial Projections	Yes	
	Academically Low Achieving Pupils	Yes	
	Teacher Credentialing	Yes	
	Transmission of Audit Report	Yes	Yes

Table 3. Summary of Recommended Technical Amendments	
Relevant Section of *Education Code (EC)* or *California Code of Regulations*, *Title 5 (5 CCR)*	**Recommended Technical Amendment**
EC Section 47605(b) and *California Code of Regulations, Title* 5 (5 *CCR*) Section 11967.5.1(a)	**Sound Educational Practice:** The CDE recommends a technical revision to the build out plan described in the petition to provide uninterrupted enrollment to grade eight students who enroll in the first year of operation.
EC Section 47605(b)(4), *EC* Section 47605(d), and 5 *CCR* Section 11967.5.1(e)	**Affirmation of Specified Conditions:** The CDE recommends a technical revision to the petition to affirm that if a pupil leaves the charter school without graduating or completing the school year for reasons other than expulsion, SCS will notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information.
EC Section 47605(b)(5)(G) and 5 *CCR* Section 11967.5.1(f)(7)	**Racial and Ethnic Balance:** The CDE recommends a technical amendment to the petition to commit to reviewing the outreach plan annually and revising the plan as needed to attract a broad base of applicants.
EC Section 47605(b)(5)(H) and 5 *CCR* Section 11967.5.1(f)(8)	**Admission Requirements:** The CDE recommends a technical amendment to the petition to remove the exemptions from the lottery for all but current SCS students and replace the exemptions with a weighted system that meets the needs of the charter and gives preference to students who reside within the district.
EC Section 47605(b)(5)(I) and 5 *CCR* Section 11967.5.1(f)(9)	**Annual Independent Financial Audits:** The CDE recommends a technical amendment to clarify the process for conducting annual independent audits.
EC Section 47605(b)(5)(J) and 5 *CCR* Section 11967.5.1(f)(10)	**Suspension and Expulsion Procedures:** The CDE recommends technical amendments to the petition to separate the preliminary lists of offenses for which a student must or may be suspended from the list of offenses for which a student must be expelled; provide evidence that the non-charter lists of offenses and procedures were reviewed to prepare the SCS list; and to provide an assurance that the policies and procedures surrounding suspension and/or expulsion will be reviewed and modified at least annually.

EC Section 47605(b)(5)(L) and 5 *CCR* Section 11967.5.1(f)(12)	**Public School Attendance Alternatives**: The CDE recommends a technical amendment to the petition to clarify that parents or guardians of pupils enrolled in SCS will have no right to admission in a particular school of any local educational agency (LEA) as a consequence of enrollment in SCS, except that such a right is extended by the LEA.
EC Section 47605(b)(5)(N) and 5 *CCR* Section 11967.5.1(f)(14)	**Dispute Resolution Procedures:** The CDE recommends technical amendments to the petition to reflect that the SBE is not an LEA ; to allow for immediate revocation of the charter if the basis of the revocation is a severe and imminent threat to the health and safety of pupils; and that the SBE may choose to resolve any dispute with SCS directly.
EC Section 47605(c) and 5 *CCR* Section 11967.5.1(f)(3)	**Standards, Assessment, and Parent Consultation**: The CDE recommends the following technical amendments to the petition: clarification whether pupils will be required to fulfill the California High School Exit Examination (CAHSEE) requirement as a condition of earning a diploma; affirmation that SCS will participate in the Student Testing and Reporting (STAR) program (not limited to administering the California Standards Tests [CSTs], but also administering the California Modified Assessments [CMAs] or California Alternate Performance Assessment [CAPA] if specified in a pupil's individualized education program [IEP]); and affirmation that SCS will administer the Physical Fitness Test (PFT) as required.
EC Section 47605(e) and 5 *CCR* Section 11967.5.1(f)(13)	**Employment is Voluntary:** The CDE recommends a technical amendment to the petition to explicitly affirm that employment is voluntary.
EC Section 47605(f) and 5 *CCR* Section 11967.5.1(f)(12	**Pupil Attendance is Voluntary:** The CDE recommends a technical amendment to the petition to explicitly affirm that attendance is voluntary.
EC Section 47605(m) and 5 *CCR* Section 11967.5.1(f)(9)	**Transmission of Audit Report**: The CDE recommends technical amendments to clarify the process for transmitting the independent audit report.

Summary of California Department of Education Evaluation

The SCS petition proposes a site-based charter school serving pupils in grades six through twelve in the Pittsburg USD. The SCS petition describes an educational program centered on Project Based Learning (PBL), which is supported by research and successful implementation at other charter high schools. The proposed extended day schedule targets the needs of the intended pupil population by including focused attention on health and wellness and college, career, and life planning, in addition to a personalized learning program and mentoring.

In considering the Synergy Charter School (SCS) charter renewal petition, the California Department of Education (CDE) reviewed:

- The SCS petition
- SCS budget information
- The reasons for denial by Pittsburg USD and the Contra Costa County Office of Education (Contra Costa COE)
- The School's response to the reasons for denial by the Pittsburg USD and the Contra Costa COE

Summary of Charter Petition Criteria, Pursuant to *Education Code* Section 47605(b)

The SCS charter petition describes an educational program likely to meet the needs of pupils within the community where the school is located, and the petition contains reasonably comprehensive descriptions of the 16 charter elements pursuant to *Education Code (EC)* Section 47605(b)(5). However, based on the materials reviewed, the CDE finds that the SCS petition does not meet all of the elements required under statute and regulation for the establishment of a charter school, as the budget and cash flow statements submitted with the petition present an unrealistic financial plan and the petitioners are demonstrably unlikely to successfully implement the program described in the petition.

Summary of California Department of Education Recommendation

If the SBE approves the SCS petition, technical amendments are recommended for clarification and to reflect SBE authorization. The CDE also recommends the following conditions of SBE approval:

- Modifications to the charter in accordance with this report and as summarized in Table 3.

- Specification of a five-year term beginning July 1, 2012, and ending June 30, 2017.

- Compliance with the Conditions of State Board of Education Authorization and Operation, as provided in Attachment 1.

Requirements for State Board of Education Authorized Charter Schools

Sound Educational Practice	**California *Education Code* (*EC*) Section 47605(b)** ***California Code of Regulations, Title* 5 (5 *CCR*) Section 11967.5.1(a)**
Evaluation Criteria For purposes of *EC* Section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the SBE's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the SBE.	
Is the charter petition "consistent with sound educational practice?"	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition describes an educational program centered on Project Based Learning (PBL), which is supported by research and successful implementation at other charter high schools. The proposed extended day schedule targets the needs of the intended pupil population by including focused attention on health and wellness and college, career, and life planning, in addition to a personalized learning program and mentoring.

If approved, the SCS would provide a unique alternative program to pupils residing in the Pittsburg area. Academic data about the schools where SCS pupils would be most likely to attend is found in Tables 3 through 6 below. Tables 3 and 4 contain the Academic Performance Index (API) net growth over the past five API cycles.

Table 3: Net API Growth for Surrounding Middle Schools

API Growth	Park Middle	Antioch Middle	Rancho Medanos Junior High	Hillview Junior High
2005–06	-6	5	0	14
2006–07	27	14	23	-1
2007–08	-30	30	29	11
2008–09	7	3	26	48
2009–10	-8	18	23	1
Net Growth	**-10**	**70**	**101**	**73**

Table 4: Net API Growth for Surrounding High Schools

API Growth	Antioch High	Pittsburg Senior High
2005–06	-8	-9
2006–07	24	18
2007–08	*	-2
2008–09	B	2
2009–10	13	25
Net Growth	**29**	**34**

* = For at least one 2008 Standardized Testing and Reporting (STAR) content area used in the API, this school failed to test a significant proportion of students who were not exempt from testing in 2008.

B = means the school did not have a valid Base API in the previous cycle and will not have any growth or target information.

Tables 5 and 6 contain API and Adequate Yearly Progress (AYP) data for the schools where SCS students would be most likely to attend. All of these schools are in year four or five of Program Improvement (PI); none of these schools met AYP in the 2009–10 school year; and none of these school met API growth targets for either numerically significant subgroups, the school as a whole, or both.

Table 5: Academic Data for Surrounding Middle Schools				
	Park Middle (Antioch USD)	**Antioch Middle (Antioch USD)**	**Rancho Medanos Junior High (Pittsburg USD)**	**Hillview Junior High (Pittsburg USD)**
API Data				
2009 Base API/ 2010 Growth API (Growth): Schoolwide	**711/703 (-8)**	**684/702 (18)**	**696/719 (23)**	**726/727 (1)**
2009 Base API/ 2010 Growth API(Growth): Black or African American	627/600 (-27)	636/637 (1)	686/679 (-7)	669/668 (1)
2009 Base API/ 2010 Growth API(Growth): Hispanic or Latino	694/705 (11)	668/706 (38)	678/707 (29)	717/722 (5)
2009 Base API/ 2010 Growth API(Growth): White	747/742 (-5)	707/731 (24)	N/A	N/A
2009 Base API/ 2010 Growth API(Growth): Socioeconomically Disadvantaged	676/672 (-4)	669/687 (18)	682/707 (25)	708/715 (7)
2009 Base API/ 2010 Growth API(Growth): English Learners	662/629 (-33)	646/652 (6)	648/689 (41)	681/674 (-7)
2009 Base API/ 2010 Growth API(Growth): Students with Disabilities	N/A	608/538 (-70)	N/A	N/A
2010 Statewide/ Similar Schools Rank	3/1	3/6	3/6	4/6
Adequate Yearly Progress (AYP) Data				
Met AYP Criteria (Criteria Met/ Applicable Criteria)	No (14/25)	No (20/29)	No (13/23)	No (11/21)
2010–11 Program Improvement (PI) Status	Year 5	Year 5	Year 5	Year 5

Table 5: Academic Data for Surrounding Middle Schools				
	Park Middle (Antioch USD)	**Antioch Middle (Antioch USD)**	**Rancho Medanos Junior High (Pittsburg USD)**	**Hillview Junior High (Pittsburg USD)**
AYP Data (Continued)				
% Proficient English Language Arts (ELA): Schoolwide	**42.1**	**41.1**	**39.9**	**39.0**
% Proficient ELA: Black or African American	22.3	32.1	38.4	28.2
% Proficient ELA: Hispanic or Latino	41.4	38.9	34.8	37.3
% Proficient ELA: White	51.8	53.6	N/A	N/A
% Proficient ELA: Socioeconomically Disadvantaged	35.0	37.6	36.0	36.2
% Proficient ELA: English Learners	21.1	25.0	28.2	27.0
% Proficient ELA: Students with Disabilities	N/A	27.8	N/A	N/A
% Proficient Mathematics: Schoolwide	**31.1**	**39.4**	**30.8**	**40.7**
% Proficient Mathematics: Black or African American	14.7	29.1	25.8	28.3
% Proficient Mathematics: Hispanic or Latino	30.0	39.3	27.9	40.2
% Proficient Mathematics: White	38.5	45.7	N/A	N/A
% Proficient Mathematics: Socioeconomically Disadvantaged	25.7	36.5	29.0	39.5
% Proficient Mathematics: English Learners	17.6	30.6	25.4	35.1
% Proficient Mathematics: Students with Disabilities	N/A	32.2	N/A	N/A

Table 6: Academic Data for Surrounding High Schools		
	Antioch High (Antioch USD)	**Pittsburg Senior High (Pittsburg USD)**
API Data		
2009 Base API/ 2010 Growth API (Growth): Schoolwide	**652/665 (13)**	**663/688 (25)**
2009 Base API/ 2010 Growth API(Growth): Black or African American	575/598 (23)	603/655 (52)
2009 Base API/ 2010 Growth API(Growth): Filipino	N/A	774/795 (21)
2009 Base API/ 2010 Growth API(Growth): Hispanic or Latino	625/646 (21)	649/681 (32)
2009 Base API/ 2010 Growth API(Growth): White	714/718 (4)	738/769 (-31)
2009 Base API/ 2010 Growth API(Growth): Socioeconomically Disadvantaged	616/636 (20)	642/681 (39)
2009 Base API/ 2010 Growth API(Growth): English Learners	566/586 (20)	601/626 (25)
2009 Base API/ 2010 Growth API(Growth): Students with Disabilities	427/437 (10)	430/497 (67)
2010 Statewide/ Similar Schools Rank	2/3	3/6
AYP Data		
Met AYP Criteria (Criteria Met/ Applicable Criteria)	No (14/26)	No (15/22)
2010–11 Program Improvement (PI) Status	Year 4	Not in PI

Table 6: Academic Data for Surrounding High Schools		
	Antioch High (Antioch USD)	**Pittsburg Senior High (Pittsburg USD)**
AYP Data (Continued)		
% Proficient English Language Arts (ELA): Schoolwide	**44.6**	**46.8**
% Proficient ELA: Black or African American	35.3	39.4
% Proficient ELA: Hispanic or Latino	42.6	44.8
% Proficient ELA: White	53.1	N/A
% Proficient ELA: Socioeconomically Disadvantaged	36.4	47.8
% Proficient ELA: English Learners	15.5	27.3
% Proficient ELA: Students with Disabilities	N/A	N/A
% Proficient Mathematics: Schoolwide	**38.3**	**42.5**
% Proficient Mathematics: Black or African American	22.1	34.0
% Proficient Mathematics: Hispanic or Latino	35.0	42.1
% Proficient Mathematics: White	49.7	N/A
% Proficient Mathematics: Socioeconomically Disadvantaged	32.1	45.6
% Proficient Mathematics: English Learners	11.7	28.1
% Proficient Mathematics: Students with Disabilities	N/A	N/A
2010 California High School Exit Examination		
% Passed ELA: Grade 10 Schoolwide	**74**	**80**
% Passed ELA: Grade 10 Socioeconomically Disadvantaged	71	82
% Passed Mathematics: Grade 10 Schoolwide	**72**	**78**
% Passed Mathematics: Grade 10 Socioeconomically Disadvantaged	68	82

SCS petitioners note multiple factors indicating that their targeted student population is at risk of not graduating from high school, including the fact that 50 to 70 percent of this student population has failed to meet proficiency standards as measured by AYP. SCS petitioners believe that a small-school setting, combined with project-based learning, extended time, and various support structures will provide students with more opportunities for academic success.

The CDE recommends a technical revision to the build out plan described in the petition to provide uninterrupted enrollment to grade eight students who enrolled in the first year of operation. A suggested revision follows:

Grade	2010–11	2011–12	2012–13	2013–14	2014–15
6	75	~~100~~ 75	100	100	100
7	75	~~100~~ 75	~~100~~ 75	100	100
8	75	~~100~~ 75	~~100~~ 75	~~100~~ 75	100
9		75	~~100~~ 75	~~100~~ 75	100
10			75	~~100~~ 75	100
11				75	100
12					100
Total	**225**	**300**	**400**	**500**	**700**

Unsound Educational Practice	***EC* Section 47605(b)(1)** **5 *CCR* Section 11967.5.1(b)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is either of the following: (1) A program that involves activities that the SBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils. (2) A program that the SBE determines not likely to be of educational benefit to the pupils who attend.	
Does the charter petition present "an unsound educational program?"	**No**

Comments:

The program proposed in the SCS petition does not present the likelihood of physical, educational, or psychological harm to pupils.

Demonstrably Unlikely to Implement the Program	***EC* Section 47605(b)(2)** **5 *CCR* Section 11967.5.1(c)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(2), the SBE shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program." (1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the SBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control. (2) The petitioners are unfamiliar in the SBE's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school. (3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school (as specified). (4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in curriculum, instruction, assessment, and finance and business management.	
Are the petitioners "demonstrably unlikely to successfully implement the program?"	**Yes**

Comments:

The SCS founding team represents a variety of skill sets likely to allow them to successfully implement the proposed program. Skills and experience possessed by the founding team include educational data management, financial management, traditional and alternative school teaching, student counseling, special education, independent study program implementation, marriage and family counseling, and certified public accounting.

The CDE finds that the budget and cash flow statements submitted in the petition present an unrealistic financial and operational plan for the proposed charter school for the reasons that follow:

Specific observations on the budget include:

- Detailed budget assumptions were not provided, including grade level enrollment and average daily attendance (ADA) projections. Without detailed ADA projections, budgeted revenues cannot be validated.

- Enrollment appears slightly high for a charter school in its first year of operation but is not unreasonable.

- It is uncertain whether Synergy will qualify for the maximum Public Charter School Grant Program (PCSGP) grant award since not all schools in the Pittsburg USD are in program improvement.

- Revenues are increased by a 1 percent cost-of-living adjustment (COLA) annually. Based on the current state budget, CDE recommends a more conservative budget with no COLA.

- Synergy budgets for a revolving loan, however, approval is not guaranteed given the high demand and low amount of available loan funds. It appears there is reliance on loan proceeds to maintain positive cash flow.

- Projections for EL students and students eligible for free or reduced price meals (FRPM) are below district averages, specifically:

	Synergy (projection)	Pittsburg USD (2009–10 actual)
o EL	20 percent	35.7 percent
o FRPM	70 percent	78.4 percent

- State apportionment deferrals are not fully budgeted which may impact cash flow.

- There is indication that a facility will be shared with Synergy Independent Study Charter School, however, no details are provided regarding how shared costs will be allocated to each school.

- The budget relies on receipt of maximum PCSGP grant award of $575,000 and Charter School Revolving Loan of $250,000, and these sources are uncertain at this time.

Regarding expenditures:

- Budgeted expenditures for salaries (certificated and classified) do not appear to be consistent with the budget narrative.

- It appears that funds are not adequately budgeted for administrative and business, audit, or legal services.

- Budgeted expenditures appear to be understated for rent or lease, textbooks, and equipment.

Required Number of Signatures	***EC* Section 47605(b)(3)** **5 *CCR* Section 11967.5.1(d)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(3), a charter petition that "does not contain the number of signatures required by [law]"…shall be a petition that did not contain the requisite number of signatures at the time of its submission…	
Does the petition contain the required number of signatures at the time of its submission?	**Yes**

Comments:

The petition includes signatures from six teachers who affirm meaningful interest in employment at SCS. This is more than half the number of teachers necessary to implement the program in its first year of operation.

Affirmation of Specified Conditions	***EC* Section 47605(b)(4)** ***EC* Section 47605(d)** **5 *CCR* Section 11967.5.1(e)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(4), a charter petition that "does not contain an affirmation of each of the conditions described in [*EC* Section 47605(d)]"…shall be a petition that fails to include a clear, unequivocal affirmation of each such condition. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in *EC* Section 47605(d).	
(1)…[A] charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the California *Penal Code*. Except as provided in paragraph (2), 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, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.	Yes

Affirmation of Specified Conditions	***EC* Section 47605(b)(4)** ***EC* Section 47605(d)** **5 *CCR* Section 11967.5.1(e)**
(2)(A) A charter school shall admit all pupils who wish to attend the school. (B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in *EC* Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law. (C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.	Yes
(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to compulsory full-time education pursuant to [*EC*] Section 48200.	Yes; Technical Amendment Necessary
Does the charter petition contain the required affirmations?	**Yes; Technical Amendment Necessary**

Comments:

The SCS contains the affirmations described in sections (1) and (2) above on the assurances page of the charter petition. The SCS expulsion procedures in the petition address Section (3); however, a technical revision is necessary to affirm that if a pupil leaves the charter school without graduating or completing the school year for reasons other than expulsion, SCS will notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information.

The 16 Charter Elements

1. Description of Educational Program	***EC* Section 47605(b)(5)(A)** **5 *CCR* Section 11967.5.1(f)(1)**
Evaluation Criteria The description of the educational program…, as required by *EC* Section 47605(b)(5)(A), at a minimum:	
(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.	Yes
(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person" in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.	Yes
(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.	Yes
(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, technology-based education).	Yes
(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to *EC* Section 60605 and to achieve the objectives specified in the charter.	Yes
(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.	Yes
(G) Indicates how the charter school will meet the needs of students with disabilities, English learners (ELs), students achieving substantially above or below grade level expectations, and other special student populations.	Yes
(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of *EC* Section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.	Yes

1. Description of Educational Program	***EC* Section 47605(b)(5)(A)** **5 *CCR* Section 11967.5.1(f)(1)**
If serving high school students, describes how district/charter school informs parents about: • transferability of courses to other public high schools; and • eligibility of courses to meet college entrance requirements (Courses that are accredited by the Western Association of Schools and Colleges (WASC) may be considered transferable, and courses meeting the UC/CSU "a-g" admissions criteria may be considered to meet college entrance requirements.)	Yes
Does the petition overall present a reasonably comprehensive description of the educational program?	**Yes**

Comments:

The SCS petitioners propose a site-based school serving pupils in grades six through twelve in the Pittsburg and Antioch area. The petitioners target a student population that would reflect the demographics of the schools in this area. Petitioners note in their charter that academic and demographic data reflecting Pittsburg's middle and high school students reveal them to be at risk of failure in high school. The SCS petitioners specifically address the needs of these students both in middle and high school through various methods, including but not limited to the following:

- An extended school day, from 8 a.m. to 5 p.m.
- Personalized learning plans
- Project Based Learning
- Integrated curriculum
- Small class size
- Mentor teacher for each pupil
- Mental health services including crisis management and small group counseling
- Health and wellness program
- Life skills courses

Tables 7 and 8 below contain demographic data from the schools where SCS students would otherwise be most likely to attend.

Table 7: 2009–10 Demographic Data for Surrounding Middle Schools				
	Park Middle (Antioch USD)	**Antioch Middle (Antioch USD)**	**Rancho Medanos Junior High (Pittsburg USD)**	**Hillview Junior High (Pittsburg USD)**
Demographics				
Enrollment	1,034	836	1,099	1,090
Mobility Rate (STAR data)	95	92	94	94
African American	18.1%	19.0%	19.3%	26.6%
Hispanic or Latino	31.4%	56.2%	59.6%	49.9%
Free or Reduced Price Meals	63.0%	84.6%	81.7%	78.4%
English Learners	11.6%	23.2%	28.6%	21.9%
Special Education (STAR data)	9%	14%	9%	8%
2009–10 Violence/Drug Rate: Suspensions	16.44	28.47	27.39	26.24
2009–10 Violence/Drug Rate: Expulsions	0.68	1.44	0.55	0.09
2009–10 Truancy Rate	38.01	58.97	23.38	37.98
Unless otherwise noted, data retrieved from the California Longitudinal Pupil Achievement Data System, May 2011				

Table 8: 2009–10 Demographic Data for Surrounding High Schools		
	Antioch High (Antioch USD)	**Pittsburg Senior High (Pittsburg USD)**
Demographics		
Enrollment	2,289	2,391
Mobility Rate (STAR data)	90	94
African American	18.1%	24.9%
Hispanic or Latino	41.1%	50.7%
Free or Reduced Price Meals	58.8%	66.9%
English Learners	13.9%	19.9%
Special Education (STAR data)	11%	9%
2008–09 Graduation Rate *	78.0	82.8
2008–09 Adjusted Grade 9–12 4-year Derived Dropout Rate	19.5	20.7
2009–10 Violence/Drug Rate: Suspensions	12.84	15.43
2009–10 Violence/Drug Rate: Expulsions	1.22	0.29
2009–10 Truancy Rate	71.17	62.32
Unless otherwise noted, data retrieved from the California Longitudinal Pupil Achievement Data System, May 2011 * = Graduation Rate Based on the National Center for Education Statistics Definition		

The educational program proposed by SCS includes the following daily components:

- 8:00 – 8:20 "Transition" activity with mentor teachers
- 8:20–11:45 Core Learning Program
- 11:45–12:45 Fitness
- 12:45–1:45 Lunch
- 1:45–4:15 Monday, Wednesday, and Friday:
  The Majors Program
  Tuesday and Thursday
  Middle grades: Health and Wellness
  High school: College, Career, and Life Planning
- 4:15 – 5:00 Project group planning meetings, mentor teacher time

The proposed SCS Core Learning Program consists of instruction in English, mathematics, science, and social science related to cross-curricular projects. In addition, 30 minutes of mathematics instruction will be delivered during the SCS Core Learning Program block to ensure sequential building of skills and understanding. SCS teachers will use a backward design model to plan projects that are aligned with California academic standards. Projects will have clearly defined end products that will allow teachers to assess students' mastery of standards. In addition, students will be quizzed and tested regarding the standards addressed in each project. Weekly and monthly assessment data will be electronically tracked to allow mentor teachers to easily track individual student progress across subject areas.

The proposed SCS Majors Programs will consist of semester-long courses of study based on students' interest and needs. The proposed areas of study are designed to prepare students for life after high school and will include elective and career preparation courses. In addition, options will be offered to students in need of additional academic support, including EL students. The petition proposes that an internship and community service learning program will be developed that will be aligned with the "major" subject areas.

The proposed SCS Health and Wellness Program for the middle grades will provide support to students around topics such as gang prevention, communication skills, sex education, nutrition, and personal ethics. The corresponding SCS College, Career, and Life Planning Program for the high school grades will provide students with opportunities to research college and careers and develop personal goals.

The proposed SCS Fitness Program includes an individual fitness program developed by each student with his or her mentor teacher. Students will be able to develop fitness goals in a variety of individual and team sports.

The SCS petition contains as part of its mission the development of a counseling and student services department. Counseling programs will be based on the American School Counselors Association Framework for School Counseling Programs model. These programs will include academic counseling, crisis management counseling, a

safe schools program, as well as training and curriculum embedded in the Health and Wellness and College, Career, and Life Planning blocks.

SCS petitioners commit to engaging in the process to obtain WASC accreditation in the first year it enrolls high school students and will immediately submit courses to the UC Regents for a-g approval. SCS graduation requirements will meet and exceed minimum course requirements for acceptance into a California State University or University of California school.

Plan for Struggling Students

The SCS Project Based Learning model will support low-achieving pupils as instruction can be easily differentiated. In addition, upon enrollment, all pupils will be given baseline assessments that will be analyzed by each pupil's mentor teacher to determine program and services targeted at the pupil's needs. Pupils functioning at more than one grade below current grade level will be recommended for participation in the school's Response to Intervention (RtI) program.

Plan for High-Achieving Students

The SCS Project Based Learning structure will allow mentor teachers to support gifted and talented pupils through the design of projects that challenge pupils' skills. Mentor teachers will be responsible for developing extended learning opportunities within projects, as well as collaborating with parents and pupils to determine additional opportunities for learning including enrollment in online or local college courses.

Plan for English Learners

SCS will comply with all federal and state mandates for EL pupils. All SCS teachers will be possess Crosscultural Language and Academic Development (CLAD) authorization and demonstrate competency in creating Project Based Learning opportunities and Specially Designated Academic Instruction in English techniques.

All EL pupils will be assigned a designated EL mentor teacher who has significant experience working with EL populations. In addition, EL pupils may be placed in an intensive English acquisition class. In the Core Learning Program, EL pupils will be supported through contextual learning opportunities and the opportunity to access content in their home language. In the SCS Majors Program, EL pupils may be recommended for placement in an EL program designed with small class sizes focused on English language acquisition.

Plan for Special Education Students

SCS petitioners commit to strict and full compliance with state and federal laws and regulations regarding special education. The SCS petition also describes the following structures to support special education students:

- A special education coordinator
- Project Based Learning that is easily differentiated
- Access to counseling services for social, emotional, and motivational issues

SCS will operate as its own local educational agency (LEA) for the purposes of special education, and if the petition is approved will apply as an LEA to a special education local area plan (SELPA).

2. Measureable Pupil Outcomes	***EC* Section 47605(b)(5)(B)** **5 *CCR* Section 11967.5.1(f)(2)**
Evaluation Criteria Measurable pupil outcomes, as required by *EC* Section 47605(b)(5)(B), at a minimum:	
(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.	Yes
(B) Include the school's API growth target, if applicable.	Yes
Does the petition present a reasonably comprehensive description of measurable pupil outcomes?	**Yes**

Comments:

The SCS petition commits to achieve AYP and annual measurable objectives (AMO) goals in accordance with the No Child Left Behind Act and will pursue API growth targets both schoolwide and in reportable subgroups. SCS measurable outcomes include academic achievement goals, personal skills and character development goals, and comprehensive schoolwide goals as detailed in the charter petition.

Academic achievement goals include concrete outcomes based on statewide assessments, AIMSweb Curriculum-Based Measurements, Preliminary Scholastic Aptitude Tests, Data Director standards-based assessments, and internally developed tests, quizzes, and rubrics. In addition, the academic achievement goals include concrete outcomes related to college and career readiness based on a-g course completion, Kuder Career Placement Tests, and technology skills assessments.

Personal skills and character development goals include concrete outcomes related to community service work, disciplinary issues, and scores on project rubrics that demonstrate critical thinking and presentation skills.

Comprehensive schoolwide goals include concrete outcomes including schoolwide educational outcomes (e.g., attendance rates, schoolwide passage rates on the California High School Exit Examination [CAHSEE], API and AYP targets and criteria, student acceptance and participation in college or career/technical education programs, closing the achievement gap as measured by California Standards Test [CST] scores), fiscal health, teacher credentialing, and parent satisfaction.

3. Method for Measuring Pupil Progress	***EC* Section 47605(b)(5)(C)** **5 *CCR* Section 11967.5.1(f)(3)**
Evaluation Criteria The method for measuring pupil progress, as required by *EC* Section 47605(b)(5)(C), at a minimum:	
(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at minimum, tools that employ objective means of assessment consistent with the measurable pupil outcomes.	Yes
(B) Includes the annual assessment results from the STAR program.	Yes
(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.	Yes
Does the petition present a reasonably comprehensive description of the method for measuring pupil progress?	**Yes**

Comments:

The SCS methods for measuring pupil progress are aligned with the goals stated in measurable pupil outcomes described in the charter. Assessment tools include, but are not limited to the following:

- CSTs
- CAHSEE
- AIMSweb benchmark assessments
- PSAT
- Project and presentation rubrics
- Standards-based tests and quizzes from Data Director
- Kuder (r) Career Skills Assessment Test
- Attendance rates
- Disciplinary records
- API goals
- AYP targets
- Budget and cash flow statements
- Evaluation of personnel records
- Annual parent survey

SCS commits to using a Baseline Assessment Program (BAP) to measure academic, technological, and Project Based Learning skills readiness of each student upon enrollment and at the beginning of each year. The petition describes each component of the BAP in detail.

In addition, the SCS petition commits to establishing a Data Collection, Analysis and Reporting Team, consisting of a program director, finance director, testing and assessment coordinator, reporting and accountability coordinator, principal, networking and technology coordinator, and lead teachers as needed. The petition describes the responsibilities of this team, which include contracting with a web-based student information system, annual school improvement efforts, reporting to and from parents, seeking WASC accreditation, and the use of Zoom! Data Source, Data Director, and AIMSweb assessment and data management tools.

4. Governance Structure	***EC* Section 47605(b)(5)(D)** **5 *CCR* Section 11967.5.1(f)(4)**
Evaluation Criteria The governance structure of the school, including, but not limited to, the process…to ensure parental involvement…, as required by *EC* Section 47605(b)(5)(D), at a minimum:	
(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.	Yes

4. Governance Structure	***EC* Section 47605(b)(5)(D)** **5 *CCR* Section 11967.5.1(f)(4)**
(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that: 1. The charter school will become and remain a viable enterprise. 2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians). 3. The educational program will be successful.	Yes
Does the petition present a reasonably comprehensive description of the school's governance structure?	**Yes**

Comments:

If approved, SCS will be a direct-funded charter school operated by Synergy Education Project, Inc. (SEP), a California nonprofit public benefit corporation. Board members will be appointed by the existing board (with the exception of the founding board) and will be expected to have experience in education, government, law, business, accounting or finance, fundraising, facilities, social services, or public relations.

SCS will form a Parent Advisory Council which will report directly to SEP. All parents will be strongly encouraged to volunteer 20 hours per year to benefit some aspect of the school; however no child will be excluded from SCS or SCS activities due to the failure of his or her parent or legal guardian to fulfill the 20 hours of participation per year.

5. Employee Qualifications	***EC* Section 47605(b)(5)(E)** **5 *CCR* Section 11967.5.1(f)(5)**
Evaluation Criteria The qualifications [of the school's employees], as required by *EC* Section 47605(b)(5)(E), at a minimum:	
(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.	Yes
(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.	Yes

5. Employee Qualifications	***EC* Section 47605(b)(5)(E)** **5 *CCR* Section 11967.5.1(f)(5)**
(C) Specify that all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.	Yes
Does the petition present a reasonably comprehensive description of employee qualifications?	**Yes**

Comments:

The SCS petition describes the qualifications and duties of its employees. The petition commits that all core teachers will possess appropriate California teaching credentials, will be CLAD certified, and will be fully compliant with No Child Left Behind requirements.

The petition describes in detail the recruitment and hiring policies of the school, professional learning programs, and staff evaluation and assessment policies.

6. Health and Safety Procedures	***EC* Section 47605(b)(5)(F)** **5 *CCR* Section 11967.5.1(f)(6)**
Evaluation Criteria The procedures…to ensure the health and safety of pupils and staff, as required by *EC* Section 47605(b)(5)(F), at a minimum:	
(A) Require that each employee of the school furnish the school with a criminal record summary as described in *EC* Section 44237.	Yes
(B) Include the examination of faculty and staff for tuberculosis as described in *EC* Section 49406.	Yes
(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.	Yes
(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.	Yes
Does the petition present a reasonably comprehensive description of health and safety procedures?	**Yes**

Comments:

The health and safety plan presented in the SCS petition is reasonably comprehensive and includes the required assurances.

7. Racial and Ethnic Balance	***EC* Section 47605(b)(5)(G)** **5 *CCR* Section 11967.5.1(f)(7)**
Evaluation Criteria Recognizing the limitations on admissions to charter schools imposed by *EC* Section 47605(d), the means by which the school(s) will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district…, as required by *EC* Section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.	
Does the petition present a reasonably comprehensive description of means for achieving racial and ethnic balance?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition contains a comprehensive plan for achieving racial and ethnic balance. The CDE recommends a technical amendment to the petition to commit to reviewing the outreach plan annually and adjusting the plan as needed to attract a broad base of applicants.

8. Admission Requirements, If Applicable	***EC* Section 47605(b)(5)(H)** **5 *CCR* Section 11967.5.1(f)(8)**
Evaluation Criteria To the extent admission requirements are included in keeping with *EC* Section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of *EC* Section 47605(d) and any other applicable provision of law.	
Does the petition present a reasonably comprehensive description of admission requirements?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition contains a description of its admission requirements, including the requirement of a public random drawing; however the order of preference stated in the petition is inconsistent with *EC* Section 47605(d)(2).

The CDE recommends a technical amendment to the petition to remove the exemptions from the lottery for all but current SCS students and replace the exemptions with a weighted system that meets the needs of the charter and gives preference to students who reside within the district.

9. Annual Independent Financial Audits	***EC* Section 47605(b)(5)(I)** **5 *CCR* Section 11967.5.1(f)(9)**
Evaluation Criteria The manner in which annual independent financial audits shall be conducted using generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the SBE's satisfaction, as required by *EC* Section 47605(b)(5)(I), at a minimum:	
(A) Specify who is responsible for contracting and overseeing the independent audit.	Yes
(B) Specify that the auditor will have experience in education finance.	Yes; Technical Amendment Necessary
(C) Outline the process of providing audit reports to the SBE, CDE, or other agency as the SBE may direct, and specifying the timeline in which audit exceptions will typically be addressed.	Yes; Technical Amendment Necessary
(D) Indicate the process that the charter school(s) will follow to address any audit findings and/or resolve any audit exceptions.	Yes; Technical Amendment Necessary
Does the petition present a reasonably comprehensive description of annual independent financial audits?	**Yes; Technical Amendment Necessary**

Comments:

The CDE recommends technical amendments to the Financial Audits section of the petition, including clarification of the process for transmitting the independent audit report as described in the CDE analysis of Element 9 of the petition.

- Affirm that the selection of the auditor will be from the Certified Public Accountant's Directory published by the State Controller's Office;

- Affirm that the audit shall be conducted in accordance with *EC* sections 41020 and 47605(m) and the Standards and Procedures for Audits of California K–12 Local Educational Agencies as published in the *California Code of Regulations;*

- Specify that the requisite parties to which the audit will be submitted as the Contra Costa County Office of Education, the CDE Charter Schools Division, CDE's Audit Resolution Office and the State Controller's Office;

- Affirm that the governing board will report to the district regarding how the exceptions and deficiencies have been or will be resolved to the satisfaction of the SBE; and

- Affirm that any disputes regarding the resolution of audit exceptions and deficiencies will be referred to the dispute resolution process contained in this charter, or if applicable, referred to the Education Audit Appeal Panel (EAAP) appeal process as required by *EC* Section 41344.

10. Suspension and Expulsion Procedures	***EC* Section 47605(b)(5)(J)** **5 *CCR* Section 11967.5.1(f)(10)**
Evaluation Criteria The procedures by which pupils can be suspended or expelled, as required by *EC* Section 47605(b)(5)(J), at a minimum:	
(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.	Yes
(B) Identify the procedures by which pupils can be suspended or expelled.	Yes
(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.	Yes
(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the	Yes

10. Suspension and Expulsion Procedures	***EC* Section 47605(b)(5)(J)** **5 *CCR* Section 11967.5.1(f)(10)**
school's pupils and their parents (guardians).	
(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D): 1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in…regard to suspension and expulsion. 2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.	Yes
Does the petition present a reasonably comprehensive description of suspension and expulsion procedures?	**Yes**

Comments:

The petition contains a reasonably comprehensive description of suspension and expulsion procedures. However, the CDE recommends the following technical amendments:

- The petition must include separate lists for offenses for which students must or may be suspended and offenses for which students must or may be expelled.
- The petition must provide evidence that the non-charter lists of offenses and procedures were reviewed to prepare the SCS list.
- The petition must provide an assurance that the policies and procedures surrounding suspension and/or expulsion will be reviewed and modified at least annually.

11. CalSTRS, CalPERS, and Social Security Coverage	***EC* Section 47605(b)(5)(K)** **5 *CCR* Section 11967.5.1(f)(11)**
Evaluation Criteria The manner by which staff members of the charter schools will be covered by the CalSTRS, the CalPERS, or federal social security, as required by *EC* Section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.	
Does the petition present a reasonably comprehensive description of CalSTRS, CalPERS, and social security coverage?	**Yes**

Comments:

The SCS petition contains a reasonably comprehensive description of retirement benefits, including CalSTRS, CalPERS, and social security coverage.

12. Public School Attendance Alternatives	***EC* Section 47605(b)(5)(L)** **5 *CCR* Section 11967.5.1(f)(12)**
Evaluation Criteria The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by *EC* Section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupil has no right to admission in a particular school of any 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.	
Does the petition present a reasonably comprehensive description of public school attendance alternatives?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition contains the required affirmation. However, the CDE recommends a technical amendment to the petition to clarify that parents or guardians of pupils enrolled in SCS will have no right to admission in a particular school of any LEA as a consequence of enrollment in SCS, except that such a right is extended by the LEA.

13. Post-employment Rights of Employees	***EC* Section 47605(b)(5)(M)** **5 *CCR* Section 11967.5.1(f)(13)**
Evaluation Criteria The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by *EC* Section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:	
(A) Any rights upon leaving the employment of an LEA to work in the charter school that the LEA may specify.	Yes
(B) Any rights of return to employment in an LEA after employment in the charter school as the LEA may specify.	Yes
(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the SBE determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.	Yes
Does the petition present a reasonably comprehensive description of post-employment rights of employees?	**Yes**

Comments:

The SCS petition contains the required description of post-employment rights.

14. Dispute Resolution Procedures	***EC* Section 47605(b)(5)(N)** **5 *CCR* Section 11967.5.1(f)(14)**
Evaluation Criteria The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to the provisions of the charter, as required by *EC* Section 47605(b)(5)(N), at a minimum:	
(A) Include any specific provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not a LEA.	Yes; Technical Amendment Necessary
(B) Describe how the costs of the dispute resolution process, if needed, would be funded.	Yes

14. Dispute Resolution Procedures	***EC* Section 47605(b)(5)(N)** **5 *CCR* Section 11967.5.1(f)(14)**
(C) Recognize that, because it is not a LEA, the SBE may choose to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.	Yes; Technical Amendment Necessary
(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with *EC* Section 47604.5, the matter will be addressed at the SBE's discretion in accordance with that provision of law and any regulations pertaining thereto.	Yes
Does the petition present a reasonably comprehensive description of dispute resolution procedures?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition describes dispute resolution procedures for conflicts within SCS and for disputes between SCS and the SBE. The CDE recommends a technical amendment to the petition to reflect that the SBE is not an LEA, and the SBE may choose to resolve any dispute with SCS directly.

15. Exclusive Public School Employer	***EC* Section 47605(b)(5)(O)** **5 *CCR* Section 11967.5.1(f)(15)**
Evaluation Criteria The declaration of whether or not the district shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the *Government Code*), as required by *EC* Section 47605(b)(5)(O), recognizes that the SBE is not an exclusive public school employer and that, therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (EERA).	
Does the petition include the necessary declaration?	**Yes**

Comments:

The SCS petition deems itself to be the exclusive and independent school employer of SCS employees for the purposes of EERA.

16. Closure Procedures	***EC* Section 47605(b)(5)(P)** **5 *CCR* Section 11967.5.1(f)(15)(g)**
Evaluation Criteria A description of the procedures to be used if the charter school closes, in keeping with *EC* Section 47605(b)(5)(P). The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.	
Does the petition include a reasonably comprehensive description of closure procedures?	**Yes**

Comments:

The SCS petition contains a reasonably comprehensive description of its closure procedures.

ADDITIONAL REQUIREMENTS UNDER *EC* SECTION 47605

Standards, Assessments, and Parent Consultation	***EC* Section 47605(c)** **5 *CCR* Section 11967.5.1(f)(3)**
Evaluation Criteria Evidence is provided that:	
(1) The school shall meet all statewide standards and conduct the pupil assessments required pursuant to *EC* sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in non-charter public schools.	Yes; Technical Amendment Necessary
(2) The school shall, on a regular basis, consult with their parents and teachers regarding the school's educational programs.	Yes
Does the petition provide evidence addressing the requirements regarding standards, assessments, and parent consultation?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition commits to using the CSTs, CAHSEE, and CELDT as part of its educational program and commits to developing a Parent Advisory Committee that will participate in the development of schoolwide goals.

The CDE recommends the following technical amendments: clarification whether pupils will be required to fulfill the CAHSEE requirement as a condition of earning a diploma; affirmation that SCS will participate in the STAR program (not limited to administering the CSTs, but also administering the CMA or CAPA if specified in a pupil's IEP); and affirmation that SCS will administer the PFT as required.

Employment is Voluntary	***EC* Section 47605(e)** **5 *CCR* Section 11967.5.1(f)(13)**
Evaluation Criteria The governing board…shall not require any employee…to be employed in a charter school.	
Does the petition meet this criterion?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition implies that employment at SCS is voluntary. The CDE recommends a technical amendment to explicitly affirm that employment is voluntary.

Pupil Attendance is Voluntary	***EC* Section 47605(f)** **5 *CCR* Section 11967.5.1(f)(12)**
Evaluation Criteria The governing board…shall not require any pupil…to attend a charter school.	
Does the petition meet this criterion?	**Yes; Technical Amendment Necessary**

Comments:

The SCS petition implies that pupils shall not be required to attend a charter school. The CDE recommends a technical amendment to explicitly affirm that attendance is voluntary.

Effect on Authorizer and Financial Projections	***EC* Section 47605(g)** **5 *CCR* Section 11967.5.1(c)(3)(A–C)**
Evaluation Criteria …[T]he petitioners [shall] provide information regarding the proposed operation and potential effects of the school, including, but not limited to:.	
• The facilities to be utilized by the school. The description of the facilities to be used by the charter school shall specify where the school intends to locate.	Yes
• The manner in which administrative services of the school are to be provided.	Yes
• Potential civil liability effects, if any upon the school and the SBE.	Yes
The petitioners shall also provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.	Yes
Does the petition provide the required information and financial projections?	**Yes**

Comments:

The petition states that SCS plans to submit a Proposition 39 request to the Pittsburg USD and locate within the district boundaries.

The charter petition indicates that Synergy School will manage its administrative services through the use of a variety of options. The School may decide to contract services through professional outside sources for services such as human resources, payroll, accounting and other business services. The budget does not appear to provide sufficient funding for this purpose.

As discussed previously in this staff review, the CDE finds that the financial statements submitted with the petition indicate that the petitioners are demonstrably unlikely to succeed in fulfilling the terms of the charter as proposed.

Academically Low Achieving Pupils	***EC* Section 47605(h)** **5 *CCR* Section 11967.5.1(f)(1)(F–G)**
Evaluation Criteria In reviewing petitions, the charter authorizer shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioners as academically low achieving pursuant to the standards established by the CDE under Section 54032 as it read prior to July 19, 2006.	
Does the petition merit preference by the SBE under this criterion?	**Yes**

Comments:

The SCS educational program is likely to benefit low-achieving students through the use of Project Based Learning, individualized learning programs, mentor teacher relationships, and extended counseling and social supports. Furthermore, SCS plans to locate in an area that is currently served by schools that are in PI year five.

Teacher Credentialing	***EC* Section 47605(l)** **5 *CCR* Section 11967.5.1(f)(5)**
Evaluation Criteria Teachers in charter schools shall be required to hold a California Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold…It is the intent of the Legislature that charter schools be given flexibility with regard to noncore, noncollege preparatory courses.	
Does the petition meet this requirement?	**Yes**

Comments:

The SCS petition contains the required affirmations.

Transmission of Audit Report	***EC* Section 47605(m)** **5 *CCR* Section 11967.5.1(f)(9)**
Evaluation Criteria A charter school shall transmit a copy of its annual independent financial audit report for the preceding fiscal year…to the chartering entity, the Controller, the county superintendent of schools of the county in which the charter is sited…, and the CDE by December 15 of each year.	
Does the petition address this requirement?	**Yes; Technical Amendment Necessary**

Comments:

The CDE recommends technical amendments to the Financial Audits section of the petition, including clarification of the process for transmitting the independent audit report as described in the CDE analysis of Element 9 of the petition.

- Affirm that the selection of the auditor will be from the Certified Public Accountant's Directory published by the State Controller's Office;

- Affirm that the audit shall be conducted in accordance with *EC* sections 41020 and 47605(m) and the Standards and Procedures for Audits of California K–12 Local Educational Agencies as published in the *California Code of Regulations;*

- Specify that the requisite parties to which the audit will be submitted as the Contra Costa County Office of Education, the CDE Charter Schools Division, CDE's Audit Resolution Office and the State Controller's Office;

- Affirm that the governing board will report to the district regarding how the exceptions and deficiencies have been or will be resolved to the satisfaction of the SBE; and

- Affirm that any disputes regarding the resolution of audit exceptions and deficiencies will be referred to the dispute resolution process contained in this charter, or if applicable, referred to the Education Audit Appeal Panel (EAAP) appeal process as required by *EC* Section 41344.

Addendum 1: Pittsburg USD Reasons for Denial

On December 15, 2010, Pittsburg USD denied the SCS charter petition by a vote of four to one.

The governing board of Pittsburg USD made specific factual findings regarding its denial of the SCS petition. A summary of the factual findings along with responses from SCS and the CDE are as follows:

Finding 1:

The SCS petitioners failed to satisfy the signature requirement because the teacher signatures submitted are invalid due to the fact that the heading on the signature page included “Synergy Charter Schools” and “Synergy Independent Study School;” therefore, the signatures cannot be used to determine meaningful interest in SCS. In addition, the petitioners submitted parent and guardian signatures that were not equivalent to at least one-half of the number of students the school will enroll in its first year of operation.

SCS Response:

The teacher signatures submitted included an indicator of which school teachers were meaningfully interested in seeking employment. The parent signatures submitted were for the benefit of the district to observe the number of in and out of district students interested in enrollment for the purpose of evaluating a Proposition 39 facilities request.

CDE Response:

The form SCS used to collect teacher signatures included a choice by each signature to circle either the site-based or the independent study programs. Seven teachers who signed the form clearly indicated that they were interested in the site-based program. Therefore, CDE finds that the signatures are valid and do satisfy the signature requirement.

Finding 2:

The petitioners are demonstrably unlikely to implement the program set forth in the petition due to the following issues:

1) Unrealistic financial projections, including the following:

(a) The projected enrollment for the first year of operation is unrealistic because of competition between SCS and Synergy Independent Study School (SICS) and between SCS and the recently approved K12 Academy in Mt. Diablo

(b) The proposed budget does not include a sufficient annual reserve amount

(c) The proposed budget assumes a PCSGP award that is not accurate

(d) The SCS revenue limit calculations do not indicate an average daily ADA rate

(e) The petitioners did not provide evidence of securing Walton Family Foundation Grant as they indicated at the public hearing on October 27, 2010

(f) The petition lacks data on special education costs

(g) The State Lottery revenue amounts are overestimated

(h) The Economic Impact Aid (EIA) revenue is not accurately budgeted

2) Failure to sufficiently identify where the charter school intends to locate

3) Proposal of an “overly ambitious” plan that is a “double dip of federal funds” due to the decision to open two schools instead of one

4) Past involvement in unsuccessful charter schools, as the co-founder of the school, Cheryl Townsend, has a past history in three charter schools that were closed within two years of opening due to financial or other operations mismanagement

SCS Response:

1a) The petitioners disagree with the district’s assumption that the school will not achieve its intended enrollment figures and note that the three closest operating charter schools in Antioch were at capacity since their first day of operation and two have wait lists. Only one of the three charter schools serves middle school students.

The two Synergy schools offer completely different programs and will attract different populations of students. In addition, Flex Academy, which does not serve middle grade students, offers a different education program than either of the Synergy schools.

1b) The code listed by the district regarding annual reserves does not apply to charter schools. However, a five percent cumulative cash reserve is clearly provided for on line 119 of the SCS planning budget that was submitted with the petition.

1c) The petitioners state that the district used inaccurate figures and refer to the PCSGP funding guide provided by CDE. In addition, it is not uncommon for non-profits to open multiple schools in a given year.

1d) The school's revenue limit calculation rates are consistent with the state's average attendance rates.

1e) The petitioners feel that potential grant money should not be added to a budget until the award is granted and did not include the Walton grant in the budget provided.

1f) Projected special education costs are dependent on a number of factors and will be determined by what is provided by the county and what will be contracted out or provided for in-house.

1g) The amount listed in the budget for lottery funds is accurate based on current funding amounts.

1h) EIA revenues are based on anticipated enrollment using Pittsburg USD student data.

2) The petition identified the location of the school to be within the city of Pittsburg and within the Pittsburg USD boundaries. The petitioners note they have identified a potential school site at Garcia Avenue that costs less than the amount indicated in the planning budget.

3) The petitioners state that the California Charter Schools Association fully supports the Synergy Education Project's decision to develop and operate two schools. There are other charter schools across the state that operate a site-based and independent study program. SCS petitioners believe they can maximize chances of survival by operating separate schools.

4) Cheryl Townsend was employed as a part-time teacher at a charter school for 18 months before the school closed, apparently for fiscal reasons. She held no administrative responsibilities at that school. She also held teaching positions at two charter schools that were not closed for reasons cited by Pittsburg USD, but because they reorganized under one charter. Petitioners note that at her previous petition as a principal, her school's API scores increased between 15 and 26 points annually.

CDE Response:

1) While the CDE finds the enrollment figures to be reasonable, the CDE also finds that the budget projections and cash flow statements indicate that the petitioners are unlikely to implement the program as described in their charter. Details regarding this finding can be found in the CDE staff review.

2) The petition contains an approximate location, identified as within Pittsburg USD boundaries. Prior to approval, it is difficult for a charter school to secure a definite location. The petitioners appear to be working toward obtaining a facility that is within the SCS budget.

3) There is no statute or regulation that would prevent a charter board from opening or operating multiple schools. Some economies of scale could possibly improve the fiscal stability of both schools.

4) The CDE could not find sufficient evidence to support either the district's or the petitioner's claim. However, the CDE finds that the founding petitioners appear to have the knowledge and experience to be successful in operating the charter school as described in the charter.

Finding 3:

The petition presents an unsound educational program because it does not sufficiently address the needs of special education students, and it projects 75 grade eight students in the 2011–12 school year but does not plan on serving grade nine students until the 2013–14 school year.

SCS Response:

The petition speaks to all legal requirements regarding SCS's obligations to serve students in special education. Petitioners are experienced and well trained in this area. Petitioners intend to join the Contra Costa County SELPA and develop terms in a Memorandum of Understanding. In addition, the petitioners reject the notion that the grade levels served by a school determine the soundness of the program.

CDE Response:

The CDE finds that the petition gives a reasonably comprehensive description of its plan for special education students. The CDE recommends that if the SBE approves the SCS petition, a technical amendment is made to adjust the build out plan to accommodate the cohort of grade eight students who will enroll in the first year.

Finding 4:

The SCS petition contains contradictory affirmations regarding the obligations of SCS not to discriminate against any pupil on the basis of characteristics listed in *EC* Section 220, and the SCS petition does not sufficiently affirm that the school shall admit all students who wish to attend.

SCS Response:

Pages 6 and 96 of the petition contain the required affirmations.

CDE Response:

CDE concurs with SCS.

Finding 5:

The SCS petition does not contain a reasonably comprehensive description of the elements required by *EC* Section 47605(b)(5).

SCS Response:

The petitioners disagree with the district's findings, and detail support of their position in Attachment 4 of this item.

CDE Response:

As detailed in this CDE staff review, the CDE finds that the petition presents reasonably comprehensive descriptions of the elements required by *EC* Section 47605(b)(5). There are technical amendments needed for clarification and to reflect SBE authorization; however, the CDE concludes that none of these amendments are substantive.

Addendum 2: Contra Costa COE Reasons for Denial

The governing board of the Contra Costa COE denied the SCS petition on February 16, 2011, by a four to one vote. Contra Costa COE made specific factual findings to support its denial of the SCS petition. A summary of the factual findings along with responses from SCS and the CDE are as follows:

Finding 1:

The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition because they have presented an unrealistic financial plan. The proposed operational budget does not include reasonable estimates of all anticipated revenues and projected expenditures. In its totality, the proposed budget does not appear viable.

SCS Response:

The petitioners disagree with the county's findings and assert that the budget is balanced and based on prior experience. The budget allows for flexibility that will enable the school to address financial needs as they develop.

CDE Response:

As noted in the CDE staff report, the CDE concurs with the county's position that the budget does not appear viable.

Finding 2:

The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition because the petition fails to indentify where SCS will be located.

SCS Response:

The petitioners assert that they have made clear their intent to locate within the Pittsburg USD boundaries and have identified a potential site. However, before approval, SCS cannot enter into a facilities lease contract. The petitioners note that if they are unable to locate a facility within two months prior to opening, they will postpone the opening of the school for one year.

CDE Response:

The CDE concurs that until approval of a petition, a charter school cannot reasonably be expected to enter any lease agreement. In addition, the petition notes intent to apply for Proposition 39 facilities. Until the approval of the petition and/or the resolution of the Proposition 39 request, the CDE finds that the petitioners have made all reasonable attempts to identify a specific location.

Finding 3:

Charter School presents an unsound educational program for the pupils to be enrolled in the charter school, in that the program is not likely to be of educational value to some pupils who attend, specifically EL and special education students.

SCS Response:

The petitioners disagree with the county's findings regarding service to EL and special education students and present details supporting their educational program for both groups of students in Attachment 5.

CDE Response:

The CDE finds that the petition provides reasonably comprehensive descriptions of how EL and special education students would benefit from the educational program proposed by the SCS petition. Details of this finding can be found in the CDE analysis of Element 1 in the CDE staff review.

Synergy Education Project

Synergy Charter Schools

Search this site

Board of Directors

Read the Petitions

Below are the files for the Petitions and Appendices for each petition. Also below are the REVISED budgets and accompanying NARRATIVES for SUBMISSION TO THE ACCS.

Appendix Synergy IS.pdf View Download	Appendix Synergy Independent Study	644 1k	v. 2	Jul 7, 2011 9:10 PM	Margie Digiorgio
Appendix Synergy School.pdf View Download	Appendix Items for Synergy School Petition	235 6k	v. 1	Jul 7, 2011 7:31 PM	Margie Digiorgio
Petition SBE IS.pdf View Download	Synergy Independent Study Petition	116 9k	v. 1	Jul 7, 2011 9:07 PM	Margie Digiorgio
Petition SBE Site (1).pdf View Download	Synergy School Petition	946k	v. 1	Jul 7, 2011 7:30 PM	Margie Digiorgio
Revised IS Budget for	Revised Budget for	279k	v. 1	Jul 27, 2011 5:04 P	Margie

	the ACCS.pdf View Download	Synergy Independent Study Charter School for Submission to the ACCS (corrected)				Digiorgio
	Revised IS NarrativeForACCS.pdf View Download	Revised Budget Narrative for Synergy Independent Study Charter School for Submission to the ACCS	162k	v. 1	Jul 23, 2011 4:19 P	Margie Digiorgio
	Revised SITE Budget ACCS.pdf View Download	Revised Budget for Synergy Charter School for Submission to the ACCS	281k	v. 1	Jul 23, 2011 4:17 P	Margie Digiorgio
	Revised SITE NarrativeForACCS.pdf View Download	Revised Budget Narrative for Synergy Charter School for Submission to the ACCS	199k	v. 1	Jul 23, 2011 4:18 P	Margie Digiorgio

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Pittsburg Unified School District
2000 Railroad Avenue, Pittsburg, CA. 94565

GOVERNING BOARD REGULAR MEETING
AGENDA

DATE:	**December 15, 2010**
TIME:	**5:30 p.m. – Reception for New Board Trustees**
	6:00 p.m. – Call to Order **– Trustees Oath of Office** **– Student Recognition**
	6:30 p.m. – Closed Session
	7:30 p.m. – Open Session
LOCATION:	**2000 Railroad Avenue Board Room**

MISSION STATEMENT:

It is the mission of Pittsburg Unified School District to inspire our students, to ensure they achieve equity in academic excellence and to bring students closer together through shared experiences in learning. We believe the cultural diversity of our community and our youth are our greatest assets. We endeavor to bring our students to their fullest potential and to create life long learners who will contribute positively to the world.

MAJOR GOALS:

1. ***Continue progress towards a target of 800 on the API at all schools by the year 2012.***
2. ***Ensure that all groups of students attain the target of 800 on the API by the year 2012.***
3. ***Monitor enrollment and adjust programs, services, staffing and budgets to run efficiently and be fiscally responsive to students' needs.***
4. ***Provide fully qualified staff for our students in a timely manner.***
5. ***Provide safe and clean learning facilities.***
6. ***Be proactive with our educational customers (parents).***

NOTICE TO THE PUBLIC

As the Board discusses agenda items, audience participation is permitted. The President will recognize those members of the audience who wish to speak. The President may set a time limit on each person's remarks, if necessary. Each person wishing to speak must complete a speaker card. Speaker cards must be submitted to the Superintendent's Secretary prior to the Board's consideration of the agenda item. Generally, the President will ask Board members for their remarks prior to recognizing requests to speak from the audience. At the President's discretion, agenda items may be considered in other than numerical order.

SPECIAL NOTICE

Anyone who is planning to attend the Board meeting and is visually or hearing impaired or has any disability that needs special assistance should call the Superintendent's Office at 473-2351 at least 48 hours in advance of the meeting to make arrangements.

For individuals who do not speak English, interpreter services are available. A request for an interpreter must be received by the Special Education Department at 925 473-2343 by 5:00 p.m. two days before the meeting. If you wish to speak to a district representative for an oral summary of the agenda items (in lieu of a fully translated agenda) you may call 925 473-2343 and ask for a translator/interpreter.

(Para las personas que no hablan inglés, habrá servicios de interpretación. La solicitud de an interprete debe de ser recibida en el Servicios de Sicologia (Psychological Services) al 473-2343 antes de las 5:00 p.m. dos dias antes de la reunión. Si quiere hablar con un representante del distrito para recibir un resumen verbal de alguno de los asuntas de agenda (en vez de recibir la agenda entera traducida) puede llamar at 925 473-2343 y preguntar por un traductor/interprete.)

COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

Pittsburg Unified School District, in compliance with the Americans with Disabilities Act ("ADA") and California Government Code section 54953.2, provides special accommodations to individuals who may need assistance with access, attendance, and/or participation in Governing Board meetings, including alternative formats for agendas, documents constituting agenda packets, and materials distributed during public meetings. Upon written request to the District, disability-related modifications or accommodations, including auxiliary aids or services, will be provided. Please contact the Superintendent's Office at (925) 473-2351, for specific information on resources or programs that may be available for such accommodation. Please call at least 48 hours in advance of meetings and five days in advance of scheduled services and activities. Translation and Hearing-Impaired services are also available.

5:30 p.m.

RECEPTION TO WELCOME NEW BOARD TRUSTEES

George Miller and Robert Belleci

****

I. CALL TO ORDER – 6:00 p.m.

II. ROLL CALL

____	Mr. Vincent Ferrante	President
____	Dr. Laura Canciamilla	Trustee
____	Mr. Robert Belleci	Trustee
____	Mr. George Miller	Trustee
____	Dr. William Wong	Trustee
____	Ms. Linda Rondeau	Superintendent/Secretary
____	Mr. Brice Tugbenyoh	Student Board Member

PLEDGE OF ALLEGIANCE

The audience will be asked to stand for the Pledge of Allegiance

III. OATH OF OFFICE

Superintendent Rondeau will administer the Oath of Office to the newly elected Board Trustees, Robert Belleci and George Miller.

IV. STUDENT RECOGNITION

A. PUSD wishes to recognize Foothill Elementary students who have been re-designated as Fluent English Proficient (RFEP).

B. PUSD wishes to recognize Deborah Meylan as recipient of a $1,200.00 Teacher Scholarship. Donated from the Pittsburg Women's Community League on behalf of Maria McCullough's retirement project.

V. PUBLIC COMMENT ON CLOSED SESSION AGENDA ITEMS

Speaker cards for closed session agenda items must be submitted prior to the closed session opening gavel.

VI. RECESS TO CLOSED SESSION – 6:30 p.m.

CLOSED SESSION AGENDA

Public Employee Employment and Appointment

Pursuant to Government Code §54957, the Board will meet in closed session to discuss employment, appointment and evaluation of the following positions:

Classified Employee Positions:	Certificated Employee Positions:
Administrative Assistant	Teachers
Bus Drivers	Speech Therapist
Child Nutrition I	Athletic Coaches
Child Nutrition II	Substitute Teachers
Instructional Aides	
Subs: FS/Aid/Clerical/Custodians/Maintenance	

Leaves/Resignations/Retirements/Privacy or Other Confidential Issues

Public Employee Performance Evaluation/Contract/Salary

Principals	Vice Principals	Superintendent
Assistant Principals	Directors	Associate Superintendent
		Assistant Superintendents

Public Employee Discipline/Dismissal/Release/Reassignment

Pursuant to Government Code Section §54957

Certificated (1) Classified (1)

Potential/Existing Litigation

Pursuant to Government Code Section §54957.6, the Board will meet in closed session to discuss existing and/or potential litigation.

(1) Case

Student Admissions/Readmission/Expulsions

Pursuant to Government Code §54947 and Education Code §48918(k), the Board will meet in closed session to discuss student readmissions/expulsions.

RECALL TO OPEN SESSION – 7:30 p.m.

Depending upon completion of Closed Session items, the Governing Board intends to convene in Open Session at 7:30 p.m. to conduct the remainder of its meeting, reserving the right to return to Closed Session at any time.

OPEN SESSION AGENDA

Speaker cards for items not on the agenda must be submitted prior to the opening gavel of the Board meeting.
Public comments will be limited to a total of 30 minutes during this segment. Additional comments will be heard after Action Items.

VII. PLEDGE OF ALLEGIANCE

The audience will be asked to stand for the Pledge of Allegiance.

VIII. AGENDA REORGANIZATION / REPORT OF CLOSED SESSION ACTION

Requests from the Board to move agenda item(s) to a different location may be made at this time.

Report of Closed Session Actions (personnel, students, other)

IX. ANNUAL REORGANIZATION AND APPROVALS

A. Resolution #10-37, Selection of Board Officers *(roll call)*
- Election of Board President
- Election of Board Vice President
- Appointment of Board Secretary

B. 2010 Board Meeting Calendar
- (January – select from 2 additional date options; select Board Workshop date)

C. Designate Board Representatives / Committee Assignments
- PUSD Facilities Committee
- PUSD Budget Sub Committee
- PUSD/City or Pittsburg Liaison Committee

D. Resolution #10-34, Yearly Authorizations *(roll call)*

NOTICE TO THE PUBLIC

Members of the audience are given an opportunity to address the Board regarding items not listed on the agenda. As the Board discusses agenda items, audience participation is permitted. The President will recognize those members of the audience who wish to speak. The President may set a time limit on each person's remarks, if necessary. Each person wishing to speak will be asked to identify himself before speaking. Generally, the President will ask Board members for their remarks before recognizing requests to speak from the audience. No action will be taken. At the President's discretion, agenda items may be considered in other than numerical order.

X. COMMENTS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA *

Public comments will be limited to a total of 30 minutes during this segment. Additional comments will be heard after Action Items.

XI. COMMENTS FROM THE STUDENT BOARD MEMBER

XII. COMMENTS FROM THE SUPERINTENDENT

XIII. REPORTS / INFORMATION

A.	School Highlights – Foothill Elementary School (Araiza)	**Doctolero**
B.	Construction and Facilities Planning Update	**Palacios**
C.	Title III Year 4 English Learner Subgroup Self Assessment (ELSSA) and Improvement Action Plan	**Colbath**

XIV. CONSENT AGENDA

A..	Approval:	Minutes of October 27, 2010	**Rondeau**
B.	Approval	Minutes of November 17, 2010	**Rondeau**
C.	Approval:	Overnight Trip Tuolumne, CA. for Foothill 5th grade students (June 1-3, 2011)	**Araiza**
D.	Approval	Demolition Bricks (from PHS) to be donated to the Eddie Hart All In One Foundation	**Palacios**
E.	Approval:	Budget Adjustments and Financial Status Report	**Palacios**

XV. ACTION ITEMS

Elementary/Secondary Education:

1.	Adoption: **(ROLL CALL):**	Resolution #10-38, Denying the Charter Petition for Establishment of the Synergy Independent Study Charter School	**Rondeau**
2.	Adoption: **(ROLL CALL):**	Resolution #10-39, Denying the Charter Petition for Establishment of the Synergy Charter School	**Rondeau**
3.	Acceptance:	Donation of $5,000.00 from Dow Chemical Foundation to Marina Vista Elementary for math and science programs	**Plunkett**
4.	Acceptance:	Donations totaling $395.03 to Rancho Medanos (from Lifetouch Studios, Reynaldo Padilla, Catalina Bolton, and the Wells Fargo / United Way Campaign	**Peyko**
5.	Acceptance:	$252.22 Donation from Clayton Perreira-Pico and the Wells Fargo Campaign to Heights Elementary	**Clark**
6.	Acceptance:	$885.60 in Teacher Grants from the Assistance League of Diablo Valley to Heights Elementary teachers. (Lisa Abono and Joanne Stark)	**Clark**

Human Resources / Business Services:

7.	Approval:	Change District Secretary II Position to Business Services Technician	**Epps**
8.	Approval:	Independent Contract for Safety Officer, Steven Spann	**Epps**
9.	Approval	Early Retirement Program Offer for Certificated and Classified (Non-Management Staff) – Funded by the Federal Jobs Act of 2010	**Palacios**

10.	Approval:	2010-2011 First Interim Financial Report	**Palacios**
11.	Approval:	Partnership between PUSD and West Coast Jamboree, 2010-2013	**Palacios**
12.	Adoption: **(ROLL CALL):**	Resolution #10-35 Canvassing and Certifying Election Results for Measure L	**Palacios**
13.	Denial	Claim Demand for Damages – Submitted by Michael J. Haddad, Attorney representing a minor	**Palacios**
14.	Adoption: **(ROLL CALL):**	Resolution #10-36, Notice of Completion (Gudgel Roofing, Inc. dba Yancey Roofing) - Los Medanos Elementary School	**Palacios**
15.	Approval:	Change Order #3 from S.J. Amoroso Construction Company for Pittsburg High School – Modernization of New Campus	**Palacios**
16.	Approval:	Change Order #8 from S.J. Amoroso Construction Company for Pittsburg High School – Reconstruction, Increment 2, New Campus	**Palacios**
Superintendent:			
17.	Adoption: **(ROLL CALL):**	Resolution #10-40, University of California Education Equality	**Rondeau**
18.	----	Call for Nominations for CSBA Delegate Assembly	**Rondeau**

* **CONTINUATION OF ITEM VIII:**
COMMENTS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA

XVI. COMMUNICATIONS

a. Written Communications from Public Agencies – Read by the Board President
b. Comments from Board Members – reports presented as applicable.
c. Comments from Employee Representatives
d. Comments from Community Organizations

XVII. FUTURE EVENTS

Dec. 13 - DELAC – District Office
Dec. 15 - Regular Board Meeting
Dec. 20-31 - Winter Break (No school)
Jan. 17 - Martin Luther King Holiday
Jan. 24 - Professional Staff Development Day (no students)
" " - DELAC – District Office

XVIII. FUTURE REQUESTS

XIX. NEXT BOARD MEETING

The next regular meeting of the Governing Board will be held in January 2010; **(exact date to be determined during this meeting).**

XX. ADJOURNMENT

Notice Posted: December 10, 2010

BOARD REPORT

Date: December 15, 2010

Recognition: ____
Information: ____
Consent: ____
Action: X

TO: **Board of Education**

PRESENTED BY: **Linda K. Rondeau, Superintendent**

SUBJECT: **Resolution No. 10-38, Denying the Charter Petition for the Establishment of the Synergy Independent Study Charter School**

OVERVIEW:

The Petitioners seek approval of their Charter Petition proposing the establishment of the Synergy Independent Study Charter School. California law governing charter school petitions provides that the District's Board must take action to approve or deny a charter petition within a specified time period after submission of the charter petition to the District.

The Petitioners submitted their Charter Petition to the District on or about October 8, 2010. Following submission of the Charter Petition a Committee consisting of Superintendent Rondeau, other District staff, and legal counsel was convened for the purpose of reviewing and analyzing the Charter Petition for legal sufficiency.

On October 27, 2010, a Public Hearing on the Charter Petition was held as required by Education Code section 47605 at which time the Petitioners were given an opportunity to make a presentation to the Board regarding their Charter Petition. Petitioners agreed to extend the 60-day deadline for the District to take action regarding the Charter Petitions, so that the District Board's decision of whether to grant or deny the Synergy Independent Study Charter Petition would be made at its December 15, 2010 regular meeting. At the October 27, 2010, Board meeting, the Petitioners were informed that the Board would take action to approve or deny the Petition at its meeting on December 15, 2010.

RATIONALE

District staff and the District's legal counsel, have extensively reviewed the proposed Charter and supporting documents submitted by Petitioners. It is the staff and legal counsel's opinion that granting the Charter for the establishment of the Synergy Independent Study Charter School is not consistent with sound educational practice. The proposed Charter fails to meet the requirements of law for approval, and there are substantive concerns in multiple areas. Attached is Resolution No. 10-38, Denying the Petition, which sets forth the specific legal bases for denial of this Charter Petition, including factual findings specifically supporting denial of the Petition.

RECOMMENDATION:

It is recommended that the Governing Board adopt Resolution No. 10-38, Denying the Charter Petition submitted by the Petitioners for the Establishment of the Synergy Independent Study Charter School.

BUDGET IMPLICATIONS:

SACS #
SACS #
SACS #

Enrique Palacios
Associate Superintendent, Business Services

PREPARED BY:

Linda K. Rondeau, Superintendent

Item No.: XV. 1

Enclosures: 2 pgs.

Pittsburg Unified School District

Resolution #10-38

RESOLUTION OF THE GOVERNING BOARD OF THE PITTSBURG UNIFIED SCHOOL DISTRICT DENYING THE CHARTER PETITION FOR THE ESTABLISHMENT OF THE SYNERGY INDEPENDENT STUDY CHARTER SCHOOL AND WRITTEN FINDINGS IN SUPPORT THEREOF

WHEREAS, the establishment of Charter Schools is governed by the Charter Schools Act of 1992, as subsequently amended, Education Code sections 47600 *et seq.* and implementing Title 5 of the California Code of Regulations;

WHEREAS, on or about October 8, 2010, the Pittsburg Unified School District ("District") received the charter Petition ("Petition") proposing the establishment of the Synergy Independent Study Charter School ("Charter School");

WHEREAS, consistent with Education Code section 47605 subdivision (b), at a regular meeting on October 27, 2010, the District's Governing Board ("Board") held a public hearing on the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents/guardians;

WHEREAS, on or about October 18, 2010, the charter petitioners agreed to extend the 60-day deadline for the District to take action regarding the Petition, so that determination of whether to grant or deny the Petition would be made by the District's Board at its December 15, 2010 regular meeting;

WHEREAS, the Board has convened at its regularly scheduled meeting on December 15, 2010, to consider whether to grant or deny the Petition;

WHEREAS, approval of charter petitions is governed by the standards and criteria set forth in Education Code section 47605 and implementing Title 5 of the California Code of Regulations;

WHEREAS, Education Code section 47605 subdivision (b) prohibits the Board from denying a charter Petition unless it makes written factual findings, specific to the particular charter school, setting forth facts to support one or more findings, which include:

1. The petition does not contain the number of signatures required by Education Code section 47605 subdivision (a);

2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;

3. The charter school presents an unsound educational program for the students to be enrolled in the charter school;

4. The petition does not contain an affirmation of each of the conditions described in Education Code section 47605 subdivision (d); or

5. The petition does not contain reasonably comprehensive descriptions of all 16 elements required in Education Code section 47605 subdivision (b)(5).

WHEREAS, the District's administration, with assistance from legal counsel, has reviewed and analyzed the petition and supporting documents for legal sufficiency, and has identified numerous deficiencies in, and concerns related to, the Petition, and recommends that the Board adopt the Findings of Fact, attached hereto as Exhibit "A" and incorporated herein by this reference, and deny the Petition;

THEREFORE BE IT RESOLVED, that the Governing Board of the Pittsburg Unified School District hereby adopts the Findings of Fact, attached hereto as Exhibit "A," and denies the Petition to establish the Synergy Independent Study Charter School;

PASSED AND ADOPTED by the Governing Board on December 15, 2010, at a duly noticed meeting by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

I, _____, Clerk of the Governing Board of the Pittsburg Unified School District, HEREBY CERTIFY that the foregoing Resolution was duly introduced, passed and adopted by the Board at a meeting thereof held on December 15, 2010, by a vote of _____ to _____.

IN WITNESS THEREOF, I have hereto set my hand this 15th day of December, 2010.

_____
Linda K. Rondeau, Superintendent
Clerk of the Governing Board

BOARD REPORT

Date: December 15, 2010

Recognition: ____
Information: ____
Consent: ____
Action: X

TO: **Board of Education**

PRESENTED BY: **Linda K. Rondeau, Superintendent**

SUBJECT: **Resolution No. 10-39, Denying the Charter School Petition for the Establishment of the Synergy Charter School**

OVERVIEW:
The Petitioners seek approval of their Charter Petition proposing the establishment of the Synergy Charter School. California law governing charter school petitions provides that the District's Board must take action to approve or deny a charter petition within a specified time period after submission of the charter petition to the District.

The Petitioners submitted their Charter Petition to the District on or about October 8, 2010. Following submission of the Charter Petition a Committee consisting of Superintendent Rondeau, other District staff, and legal counsel was convened for the purpose of reviewing and analyzing the Charter Petition for legal sufficiency.

On October 27, 2010, a Public Hearing on the Charter Petition was held as required by Education Code section 47605 at which time the Petitioners were given an opportunity to make a presentation to the Board regarding their Charter Petition. The Petitioners were informed that the Board would take action to approve or deny the Petition at its meeting on December 15, 2010.

RATIONALE
District staff and the District's legal counsel, have extensively reviewed the proposed Charter and supporting documents submitted by Petitioners. It is the staff and legal counsel's opinion that granting the Charter for the establishment of the Synergy Charter School is not consistent with sound educational practice. The proposed Charter fails to meet the requirements of law for approval, and there are substantive concerns in multiple areas. Attached is Resolution No. 10-39, Denying the Petition, which sets forth the specific legal bases for denial of this Charter Petition, including factual findings specifically supporting denial of the Petition.

RECOMMENDATION:
It is recommended that the Governing Board adopt Resolution No. 10-39, Denying the Charter Petition submitted by the Petitioners for the Establishment of the Synergy Charter School.

BUDGET IMPLICATIONS:

SACS #
SACS #
SACS #

Enrique Palacios
Associate Superintendent, Business Services

PREPARED BY:

Linda K. Rondeau, Superintendent

Item No.: XV. 2

Enclosures: 2pgs

Pittsburg Unified School District

Resolution #10-39

RESOLUTION OF THE GOVERNING BOARD OF THE PITTSBURG UNIFIED SCHOOL DISTRICT DENYING THE CHARTER PETITION FOR THE ESTABLISHMENT OF THE SYNERGY SCHOOL CHARTER SCHOOL AND WRITTEN FINDINGS IN SUPPORT THEREOF

WHEREAS, the establishment of Charter Schools is governed by the Charter Schools Act of 1992, as subsequently amended, Education Code sections 47600 *et seq.* and implementing Title 5 of the California Code of Regulations;

WHEREAS, on or about October 8, 2010, the Pittsburg Unified School District ("District") received the charter Petition ("Petition") proposing the establishment of the Synergy School Charter School ("Charter School");

WHEREAS, consistent with Education Code section 47605 subdivision (b), at a regular meeting on October 27, 2010, the District's Governing ("Board") held a public hearing on the Petition, at which time the Board considered the level of support for the Petition by teachers employed by the District, other employees of the District, and parents/guardians;

WHEREAS, on or about October 18, 2010, the charter petitioners agreed to extend the 60-day deadline for the District to take action regarding the Petition, so that determination of whether to grant or deny the Petition would be made by the District's Board at its December 15, 2010 regular meeting;

WHEREAS, the Board has convened on December 15, 2010, to consider whether to grant or deny the Petition;

WHEREAS, approval of charter petitions is governed by the standards and criteria set forth in Education Code section 47605 and implementing Title 5 of the California Code of Regulations;

WHEREAS, Education Code section 47605 subdivision (b) prohibits the Board from denying a charter Petition unless it makes written factual findings, specific to the particular charter school, setting forth facts to support one or more findings, which include:

1. The petition does not contain the number of signatures required by Education Code section 47605 subdivision (a);

2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition;

3. The charter school presents an unsound educational program for the students to be enrolled in the charter school;

4. The petition does not contain an affirmation of each of the conditions described in Education Code section 47605 subdivision (d); or

5. The petition does not contain reasonably comprehensive descriptions of all 16 elements required in Education Code section 47605 subdivision (b)(5).

WHEREAS, the District's administration, with assistance from legal counsel, has reviewed and analyzed the petition and supporting documents for legal sufficiency, and has identified numerous deficiencies in, and concerns related to, the Petition, and recommends that the Board adopt the Findings of Fact, attached hereto as Exhibit "A" and incorporated herein by this reference, and deny the Petition;

THEREFORE BE IT RESOLVED, that Governing Board of the Pittsburg Unified School District hereby adopts the Findings of Fact, attached hereto as Exhibit "A," and denies the Petition to establish the Synergy School Charter School;

PASSED AND ADOPTED by the Governing Board on December 15, 2010, at a duly noticed meeting by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

I, _____, Clerk of the Governing Board of the Pittsburg Unified School District, HEREBY CERTIFY that the foregoing Resolution was duly introduced, passed and adopted by the Board at a meeting thereof held on December 15, 2010, by a vote of _____ to _____.

IN WITNESS THEREOF, I have hereto set my hand this 15th day of December, 2010.

_____
Linda K. Rondeau, Superintendent
Clerk of the Governing Board

EXHIBIT "A"

FINDINGS OF FACT

Synergy School Charter School

EXHIBIT "A"

FINDINGS OF FACT

I. THE SYNERGY SCHOOL CHARTER SCHOOL ("Charter School") PETITIONERS ("Petitioners") HAVE FAILED TO SATISFY THE SIGNATURE REQUIREMENT:

A. To contain the requisite signatures pursuant to section 47605 of the California Education Code, a charter petition must be signed by either: (i) the number of parents/legal guardians that is equivalent to at least half of the number of students the charter school estimates will enroll in the charter school during its first year of operation, or (ii) the number of teachers that is equivalent to at least half of the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation. For the parent/guardian signatures to be valid, the petition must include a prominent statement that a signature on the petition means that the parent/guardian is meaningfully interested in having his/her child/ward attend the charter school, or in the case of a teacher's signature, that the teacher is meaningfully interested in teaching at the charter school. (Cal. Ed. Code § 47605(a)(3).) The signatures submitted with the Synergy School Charter School petition ("Petition") are invalid for the following reasons:

1. The Petitioners submitted signatures of teachers. The heading of each signature page identifies the underlying attached document as the "Petition for the Establishment of Synergy Education Project Charter Schools" and lists "Synergy School (Grades 6-12)" <u>and</u> "Synergy Independent Study School." None of the teacher signatures provided with the Petition sufficiently represent that those individuals who signed the Petition are meaningfully interested in being employed at the Synergy School Charter School that is being proposed to the District, but merely represent that such teachers are meaningfully interested in employment with "Synergy Education Project Charter Schools" calling into question the individuals' understanding of the document to which they were signing their support. Based on the lack of a sufficient prominent statement that the signature on the Petition means that the teacher is meaningfully interested in teaching at Synergy School, the signatures cannot be deemed to demonstrate meaningful interest.

2. While the Petitioners also submitted parent/guardian signatures with the Petition, they did not submit signatures equivalent to at least one-half of the number of students the Charter School estimates will enroll in the Charter School during its first year of operation.

II. THE PETITIONERS ARE DEMONSTRABLY UNLIKELY TO SUCCESSFULLY IMPLEMENT THE PROGRAM SET FORTH IN THE PETITION.

A. The Petitioners are demonstrably unlikely to successfully implement the program because they have presented an unrealistic financial and operational plan for the proposed charter.

1. The Charter School's budget submitted with its Petition contains multiple fiscal problems including:

   (a) The projected enrollment for at least the first year of operation is estimated to be a number which the District's staff believes is unrealistically inflated. Specifically, the Petitioner indicates that the Charter School plans to enroll 225 students in year one for grades 6th through 8th (75 per grade level) with 300 in year two, jumping up to 700 by year five, and the Charter School's Budget is based on these enrollment projections. The ability of the Charter School to be able to obtain 225 students in its first year of operation is impacted by the following, but not limited to, facts:

      (i) The Petitioners have simultaneously with this Petition submitted a proposal to establish Synergy Independent Study School charter school. In the petition for Synergy Independent Study School, the Petitioners project 300 students for year one in grades K-12. The parent/guardian signatures submitted with the petition demonstrate that a significant portion of those students meaningfully interested in enrolling in the Synergy Independent Study School Charter School will be in grades 6-8, impacting the Petitioner's ability to reach the projected enrollment for Synergy School. Since these charter schools will potentially be competing against each other for students, the Petitioners will need to expend an extraordinary amount of effort in order to achieve the student numbers it is projecting for both schools.

      (ii) The Contra Costa County Board of Education recently approved the petition for the establishment of K12 Academy Mt. Diablo charter school to commence operation in the Fall of 2011. The K12 Academy charter anticipates ADA projections of over 250 for its first year and over 500 for its second and third years of operation. The District believes that the existence of a newly created charter school in Contra Costa which will commence operation at the same time as the proposed Synergy School may impact the ability of Synergy School to obtain the student enrollment projections it is anticipating.

Because the Charter School's budget is premised on these inflated enrollment projections, the entire projected budget will be impacted, likely resulting in a deficit budget jeopardizing the ability of the Petitioners to successfully operate their program.

(b) The proposed budget submitted with the Petition does not appear to budget for an annual reserve amount sufficient to satisfy Title 5, California Code of Regulations, section 15450(a).

(c) The Charter School's planning budget assumes receipt of a Public Charter School Grant Program (PCSGP) planning and implementation award of $625,000. The Petition's projected distribution of PCSGP funds is inconsistent with the information available from the State resulting in a cash flow deficit. The specific differences are shown in the following table:

PCSGP	**State's Distribution Schedule (classroom-based):**	**Petitioner's Budget:**	**Cash Flow Deficit:**
Planning	$175,000	$200,000	*-$25,000*
Imp. Year 1	$100,000	$225,000	*-$125,000*
Imp. Year 2	$100,000	$200,000	*-$100,,000*
Total Distribution:	$375,000	$625,000	***Short $250,000***

Additionally, the Petitioners' budget reflects the Charter School's presumed receipt of the Public Charter School Grant as a revenue source. The Charter School does not include an alternative funding plan in the event the Charter School is not awarded some/all of these monies. Furthermore, the likelihood that the Charter School will qualify to receive any PCSGP funds is called into question by the fact that the Petitioners intend to simultaneously submit PCSGP applications to the California Department of Education for two separate charter schools which will share staff, facilities and other resources. Since the assumed PCSGP monies are a significant portion of the Charter School's budget, should it not receive the maximum amount of funds it assumes, the likelihood of the Charter School to be able to successfully implement its program will be impacted.

(d) The Charter School's revenue limit calculations do not indicate an ADA rate.

(e) The Petitioners indicated at the Public Hearing on October 27, 2010, that they have been invited to apply for the Walton Family Foundation grant, but they have not provided any evidence that they will be able to secure any such grant monies.

(f) The Petition lacks data on projected special education costs and the budget does not account for appropriate staffing to provide special education services in the manner required by law.

(g) The State Lottery revenue amounts in the Charter School's planning budget are overestimated on a per ADA basis.

(h) The Charter School's budget for Economic Impact Aid (EIA) revenue is not based on the average allocation per student. This may be problematic for the Charter School as a new school since EIA revenue calculations require consideration of many factors including demographics, enrollment, and program requirements.

2. The Petition fails to sufficiently identify where the Charter School intends to locate as required by Education Code section 47605(g). The Petitioners originally intended to submit a Proposition 39 facilities request to the District for facilities but then expressed to the District on October 29, 2010, that they decided to pursue a different path for securing the Charter School's facilities. Without providing any specific information about the facility, the Petition indicates that Synergy may consider leasing private facilities and is searching for an alternative location "within the District's boundaries."

3. Petitioners' overly ambitious proposal to open and operate two charter schools at the same time may impact their ability to successfully implement the program of one or both of the proposed charter schools. Supporting this finding, is the fact that the Petitioners admitted to the District that they are the first charter developer with whom the California Charter School Association (CCSA) has assisted in the submission of two petitions that are completely different in education design to a district in the same year. Certainly, the CCSA, an organization that assists hundreds of charter developers throughout the State, would have come across such a scenario in the past if it were a viable endeavor.

   Furthermore, the Petitioners have admitted that their original plan was to open one school that would encompass a site-based and an independent study program. However, their admitted reason for splitting the school is to obtain additional Title I and facilities funding. This calls into question whether the Petitioners will be able to successfully implement either charter school's education program if they are unable to obtain the anticipated double dip of federal funds.

B. The Petitioners are demonstrably unlikely to successfully implement their program because their past history of involvement in charter schools has been unsuccessful.

1. Cheryl Townsend (Co-Founder and Charter School's Program Director) has a past history of involvement in charter schools which has been unsuccessful, including the following charter schools which were closed within two years of opening for financial or other operations mismanagement reasons:

- Fort Ross Charter School
- New Hope Charter School
- West Sonoma Charter School

III. THE CHARTER SCHOOL PRESENTS AN UNSOUND EDUCATIONAL PROGRAM FOR THE PUPILS TO BE ENROLLED IN THE CHARTER SCHOOL.

A. The Petition presents an unsound educational program for the students to be enrolled in the Charter School reasons including, but not limited to, the following:

1. The Petition fails to sufficiently address how the Charter School will serve the needs of special education students. The Petition does not demonstrate the Petitioners' understanding of its responsibilities under law for special education students, and how the Charter School intends to meet those responsibilities, as described in more detail below.

2. The Charter School projects 75 8th grade students for the 2011-2012 school year, but does not plan to expand to operate its 9th grade until the 2013-2014 school year leaving these students (who will be 9th grade students in 2012-2013 school year) with no education program for the entire 2012-2013 school year. The Petitioner's failure to account for an entire grade of students for an entire school year calls into question the soundness of the Charter School's proposed education program. Additionally, to the extent the Charter School's budget includes revenue from these projected 75 students, its ability to continue to successfully implement its education program will be impacted.

IV. The Petition does not contain an affirmation of each of the conditions described in Education Code section 47605(d).

A. The Petition includes contradictory affirmations regarding the obligation of the Charter School not to discriminate against any pupil on the basis of the characteristics listed in Education Code section 220.

B. The Petition fails to sufficiently affirm that the Charter School shall admit all students who wish to attend.

V. THE PETITION DOES NOT CONTAIN REASONABLY COMPREHENSIVE DESCRIPTIONS OF THE ELEMENTS REQUIRED IN EDUCATION CODE SECTION 47605(b)(5).

A. The Petition <u>does not</u> contain a reasonably comprehensive description of the Educational Program (Element 1).

1. The Petition fails to include a framework for instructional design that is aligned with the needs of the students that the Charter School has identified as its target population. The basic design is Project Based Learning, described in the Petition as: "focuses less on teaching and more on learning," focus on a content driven learning project," through investigation, research, and collaboration," "text books, lectures, conventional assessments, experimentation and technology all serve as resources," "students engage in cooperate learning," "students collect, evaluate, and interpret data," "during course of inquiry, students learn content, process and problem solving."

   The basic Project Based Learning design described in the Petition presumes a high level of student English language fluency and literacy in order to inquire, collaborate, investigate, research, listen and comprehend lectures, and to complete and present projects. This approach is not a promising alignment with the needs of English learners who will need significant direct instruction in order to mediate the demands of secondary-school academic English. For instance, English learners will need frequent direct instruction in both content-specific vocabulary and general academic vocabulary, as well as, direct instruction in the complexities of academic syntax, throughout the school day and in all subject matter. English learners require a basic instructional design that directly teaches language and content within the context of delivering content instruction.

   Furthermore, the Petition only makes passing reference to bilingual teachers ("administrators will make every effort to employ a number of bilingual staff"), but provides no detail on how the PBL approach might operate in a consistent, coherent, bilingual fashion, or provide any assurance that bilingual staff will be available at the Charter School.

2. The Petition fails to indicate how the Charter School will meet the needs of English learners. For instance, the Petition proposes that beginner and early intermediate level EL students will be enrolled in the Majors Program for English Learners (PBLEL), which is where English learners will be instructed in English language acquisition. However, the Petition fails to specify how intermediate to advanced level English learners will

receive instruction in ELD, a State required core academic subject for English learners.

Furthermore, the Petition provides scarce detail about how the needs of English learners will be accommodated in core-content instruction. For instance, the Petition states: "PBL projects development will include instructional strategies for English learners and support their needs in the regular classroom setting." However, other than its reference to online coursework in Spanish, the Petition fails to describe/mention any pedagogical approach know to be effective for English learners in fostering English language development or core-content understanding.

3. The Charter Schools proposed plan regarding transferability of courses to other pubic high schools and to meet college entrance requirements is inadequate. While the Petition generally discusses the Charter Schools plan for obtaining WASC accreditation, the Petition does not address how they will handle the issues of students who graduate from the Charter School before the WASC accreditation process is complete.

4. The Petition fails to address how the proposed school will serve socioeconomically disadvantaged (SED) students. While the Petition describes its plan for identifying and supporting students functioning below grade level, the strategies described in the Petition for academically low achieving students do not appear to contain strategies geared towards SED students.

5. The Petition fails to sufficiently address how the Charter School will serve the needs of special education students. Below is a non-exhaustive list of deficiencies:

   (a) While the Petition specifies that the Charter School will comply with all applicable provision of the Individuals with Disabilities Education Act ("IDEA") and other federal and state laws concerning children with disabilities, since the Petition does not indicate which services the Charter School proposes to provide itself and which services it plans on contracting with the District to provide, it is impossible to determine whether the Charter School will be able to comply with the above stated requirements.

   (b) The petition states that the Charter School offers a "full inclusion program" for all its students. Special education students may be served outside the general education classroom for "periodic services," but shall otherwise be fully included in the general education classroom. This model does not take into account the full spectrum of unique needs and corresponding services a student with disabilities might require in order to receive a Free and Appropriate Education ("FAPE"). The Petition does not contain any information regarding other options or programs that will be

available for Charter School students who will not benefit from a full inclusion program.

(c) The Petition states that Synergy's Project Based Learning (PBL) "naturally and organically" supports many students with learning disabilities, and that many of the interventions, accommodations and modifications called for in RtI and IEPs come as a natural consequence of the implementation of the PBL model. However, the Petition does not describe with any specificity what the interventions, accommodations and modifications are, how they would be implemented, or how they would meet the needs of special education students.

(d) The Petition states that students enrolling at the Charter School with an active IEP will receive the placement and services as called for in their IEP. The Petition provides no information about where or how the placement and services will be provided, particularly for students enrolling from SDCs. The petition is silent as to how the Charter School will provide placement and services to students requiring a special day class.

(e) The Petition states that within 30 days of the enrollment of a student with an active IEP, the Charter School will hold an IEP team meeting to determine the need for evaluations, appropriate placement and/or changes to the student's IEP goals "relative to Synergy's unique education delivery." For students with disabilities, goals and objectives must based on the student's unique needs, not the school's system for delivering instruction.

(f) The Petition states that if a student is found ineligible for special education, he or she will be referred to Synergy's RtI Program or referred for a Section 504 Plan. This proposed procedure demonstrates a misunderstanding of the process for finding a student eligible for a Section 504 Plan. Finding a student ineligible for special education and related services does necessitate a referral under Section 504. Section 504 contains its own assessment, eligibility and FAPE criteria.

(g) According to the Petition, initially the Charter School intends to function as a "public school of the local education agency that granted to charter" for purposes of providing special education and related services, and will seek funding and/or services from the District for special education in the same manner provided to students in the District's other public schools. If the District is unable to provide special education services, the Charter School will seek its own special education providers. These assertions are deficient for reasons including the following :

(i) The Petition provides no details regarding the types of special education programs and services the Charter School will make available to students;

(ii) The Petition contains no information regarding delivery system for special education programs and services except that all students will be in full inclusion program;

(iii) The Petition identifies only one special education staff member the Charter School intends to employ, the Special Education Coordinator, who will be responsible for all aspects of a student's IEP with no description of how IEP services will be delivered and by whom;

(iv) The Petition provides no detail about the type of funding the Charter School seeks;

(v) The Petition contains no information regarding how or where the Charter School would procure special education services, if the District is not able to provide them; and

(vi) The Petition "assumes" any agreement with the District would provide the Charter School with reasonable "flexibility" to decide whether to receive services, funding or some combination of the two without any articulation of how special education and related services would be provided and by whom within this "flexible" model.

(h) The Petition does not sufficiently address how State compliance complaints and due process complaints will be handled. In fact, these two separate types of complaints, which are filed with separate State agencies and require different types of responses and resolutions, are described together in the Petition with the assumption that the District will defend itself and the Charter School. No other details are provided.

6. The Petition fails to adequately describe a curriculum/program for students in the area of Physical Education.

B. The Petition does not contain a reasonably comprehensive description of the Measureable Pupil Outcomes Identified for use by the Charter School (Element 2).

1. The Petition does not sufficiently describe the measurable pupil outcomes to be used by the Charter School in determining the extent to which pupils will demonstrate they have attained the skills, knowledge, and attitudes specified as goals in the Charter School's educational program.

2. The Petition does not sufficiently demonstrate how the Charter School's objective means for measuring student outcomes are capable of being readily used to evaluate the effectiveness of, and to modify instruction for, individual students and for groups of students.

3. The Petition makes no reference to the Charter School's Academic Performance Index (API) growth target.

C. The Petition <u>does not</u> contain a reasonably comprehensive description of the Methods to Assess Pupil Progress Towards Outcomes (Element 3).

1. The Petition does not sufficiently describe the methods used to assess student progress toward stated outcomes.

2. The Petition does not sufficiently assure that the Charter School shall conduct all state mandated assessments, including the Statewide Testing and Reporting (STAR) program.

D. The Petition <u>does not</u> contain a reasonably comprehensive description of the Charter School's Governance Structure, including the Process to Ensure Parental Involvement (Element 4).

1. The Petition fails to provide a sufficient assurance that the Charter School will comply with the Brown Act. While the Petition specifies that the Charter School's Board of Directors will meet in accordance with the Brown Act, the Synergy Education Project's draft Bylaws are void of any assurance that the corporate Board of Directors shall abide by the Brown Act potentially allowing the corporate Board to operate in a manner which may conflict with the Brown Act.

2. The Petition fails to provide sufficient assurance that the Charter School will comply with the laws against conflicts of interest and the Charter School Board's proposed Conflict of Interest Policy allows for practices that may run contrary to conflict of interest laws including Government Code section 1090 *et seq*. For instance, the Conflict of Interest Policy allows the Board to approve a transaction in which a Board member will receive a direct or indirect financial benefit or profit from the decision, including compensation for employment, so long as the interested member abstains from deliberations and voting on the Board's decision. Section 1090 *et seq*. prohibits governing board members from being financially interested in any contract made by them in their official capacity, or by the board of which they are members. A conflict of interest in a contract per Section 1090 results in a void contract and the steps the board may take per the proposed Conflict of Interest Policy will not cure that conflict.

3. The Petition's discussion of parental involvement does not include any provision to communicate with or engage non-English speaking parents/guardians, although the Petitioners should be aware of the large limited English population, particularly Spanish speaking, in the District.

4. The Charter School allows its Board of Directors and Program Director to delegate or contract out to a business administrator, other employee, or third party provider the responsibilities of the Program Director in multiple areas, including ensuring the Charter School enacts its mission, vision, and core values, compliance with state and federal laws, and ensuring fiscal stability. Allowing delegation of responsibilities in this manner calls into question who will actually be governing the Charter School's operations and raises issues regarding the ability of the District to exercise its oversight obligations.

5. While the Petition specifies that the Charter School will be governed by the Synergy Education Project Board of Directors in accordance with its adopted corporate bylaws, the Petitioners have failed to submit adopted Bylaws with their petition.

6. The Petition fails to sufficiently acknowledge the right of the District to charge the Charter School an oversight fee per Education Code section 47613.

E. The Petition <u>does not</u> present a reasonably comprehensive description of Employee Qualifications (Element 5).

1. The Petition fails to describe procedures it will follow for monitoring teacher credentials, including who has the responsibility to monitor.

2. The Petition does not sufficiently describe its "Affirmative Action Policy" related to the Charter School's hiring procedures. As a result, the District is unable to determine whether the Charter School's hiring practices are discriminatory subjecting the Charter School to potential liability.

F. The Petition <u>does not</u> present a reasonably comprehensive description of the Charter School's Health and Safety Procedures (Element 6).

1. The Petition fails to sufficiently assure that the Charter School's facilities will comply with the Americans with Disabilities Act access requirements, and any other applicable fire, health, and structural safety requirements and that it will maintain on file readily accessible records documenting such compliance.

2. The Petition fails to sufficiently describe the insurance coverage that will be maintained for the Charter School, preventing the District from being able to determine whether such coverage is sufficient enough to protect the District from potential liability of the Charter School and the acts, errors, and omissions of the Synergy Education Project. For instance, the Charter School fails to commit to any levels of insurance coverage, and fails to assure that the District will be named as an additional insured on such policies.

G. The Petition <u>does not</u> present a reasonably comprehensive description of Means for Achieving Racial and Ethnic Balance (Element 7).

1. Education Code section 47605(b)(5)(G) requires a reasonably comprehensive description of the means by which Charter School will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the District to be included in the Petition. The Petition fails to sufficiently specify what geographic areas will be targeted in its outreach efforts. For instance, the Petition generally references "local" establishments and organizations that will be targeted and "low-income neighborhoods, with no specificity regarding what it considers "local." This deficiency is compounded by the fact that the Charter School has not identified where its facilities will be located.

2. The Charter School may have difficulty in achieving a racial and ethnic balance reflective of the general population residing within the District in part due to the inadequacy of the Charter School's plan for ELL students. The District has a large ELL population, predominantly consisting of students whose first language is Spanish. The Charter School's failure to adequately address how it will properly serve ELL students, and the fact that the Charter School may be unable to do so, may result in a lower enrollment by ELL students, which may in turn result in a lower overall enrollment of Latino students, thereby impacting the racial and ethnic balance at the Charter School.

H. The Petition <u>does not</u> present a reasonably comprehensive description of Admission Requirements (Element 8).

1. The Charter School's stated lottery exemptions conflict with federal non-regulatory guidance utilized by the California Department of Education in the Public Charter School Grant Program application process, jeopardizing the likelihood that the Charter School will be awarded any grant under that Program.

I. The Petition <u>does not</u> present a reasonably comprehensive description of Annual Independent Financial Audits (Element 9).

1. The Petition fails to provide an assurance that it will annually prepare and submit the preliminary budget and reports required by Education Code section 47604.33 to the District and to the Contra Costa County Superintendent of Schools by the deadlines specified in that Section.

J. The Petition <u>does not</u> present a reasonably comprehensive description of Student Suspension and Expulsion Procedures (Element 10).

1. While the Petition specifies that all of the Charter School's disciplinary actions will "strictly comply" with the California Education Code, the

Charter School's procedures described in the Petition at times conflict with the Education Code.

2. The Petition fails to identify offenses for which students will be subject to mandatory suspension and/or expulsion recommendations and which are discretionary. The Charter School's apparent failure to require mandatory suspension and/or expulsion recommendations when students commit a serious offense warranting mandatory suspension and expulsion recommendation under the Education Code, including possession of a firearm, robbery/extortion, and sexual assault, causes the District to question whether the Charter School sufficiently considered whether their proposed list of offenses and procedures for expulsion provides adequate safety for students, staff, and visitors to the school.

3. The Charter School does not afford students any appeal rights following a decision to expel which may impact their due process rights.

4. The Petition fails to sufficiently and accurately describe the rights of students who have been expelled from the Charter School and the responsibilities of the Charter School for facilitating post-expulsion placements to ensure expelled students are not lost in the system or drop out of school.

5. The Charter School improperly places the burden on parents/guardians to find an alternative placement for their child following expulsion.

6. The Petition fails to sufficiently describe rights of Charter School students with disabilities in regard to suspension and expulsion.

K. The Petition <u>does not</u> present a reasonably comprehensive description of Student Public School Attendance Alternatives (Element 12).

1. The Petition fails to specify that the parent/guardian of each student enrolled in the Charter School will be informed that their child has no right to admission in a particular school of the District as a consequence of enrollment in the Charter School, except to the extent that such a right is extended by the District.

L. The Petition <u>does not</u> present a reasonably comprehensive description of Dispute Resolution Procedures (Element 14).

1. The Petition fails to sufficiently acknowledge the District's right to pursue revocation of the Charter despite the dispute resolution process.

2. The Petition's description of the Charter School's dispute resolution procedures is reasonably comprehensive. For instance, it does not specify all timeframes for completing each step of the resolution process, which may lead to disputes going unresolved for an excessive amount of time potentially impacting the District's exercise of its oversight obligations.

M. The Petition <u>does not</u> present a reasonably comprehensive description of Closure Procedures (Element 16).

1. The Petition fails to describe closure procedures that are sufficient to ensure the proper disposition of all assets and liabilities of the Charter School upon closure. The Petition specifies that upon closure of the school, all school assets, including "all ADA apportionments and other revenues generated by students attending the school" shall remain the sole property of the Synergy Education Project and be distributed "in accordance with the Articles of Incorporation to another public educational entity." However, should Synergy Education Project not dissolve upon closure of the Charter School, such funds would continue to be retained allowing Synergy Education Project to use such public funds for non-Charter School related purposes.

2. The Petition fails to specify that the Charter School will complete and file annual reports required by law.

3. The Petition fails to identify a source of funding for closure-related activities.

End

PITTSBURG UNIFIED SCHOOL DISTRICT

2000 Railroad Ave

Pittsburg, Ca 94565

BOARD OF EDUCATION

MINUTES

December 15, 2010

ROLL CALL

Dr. William Wong	President
Dr. Laura Canciamilla	Vice President
Mr. Robert Belleci	Trustee
Mr. Vince Ferrante	Trustee
Mr. George Miller	Trustee
Ms. Linda Rondeau	Superintendent/Secretary
Mr. Brice Tugbenyoh	Student Board Member

316. CONVENE

Following a reception for new trustees Robert Belleci and George Miller, Superintendent Rondeau administered the Oath of Office to the newly elected and re-elected trustees, Robert Belleci, George Miller, Vince Ferrante and Dr. Willie Wong. Certificates of recognition were presented to students from Foothill Elementary who had been re-designated as Fluent English Learners.

317. COMMENTS FROM PUBLIC – ON CLOSED SESSION AGENDA ITEMS

There were no comments from the public on closed session agenda items. The Board convened to closed session at 6:12p.m.

318. RECONVENE

The board convened the regular session at 7:31p.m.

319. AGENDA REORGANIZATION / REPORT OF CLOSED SESSION ACTION

Ms. Rondeau requested that action item 15.7 be removed from the agenda. The board voted to approve the personnel actions report: motioned by Canciamilla, seconded by Wong (5/0) with special recognition to Stephanie Koteles, PHS Counselor on her retirement with 14 years of service to the staff and students of PUSD.

320. ANNUAL REORGANIZATION AND APPROVALS

A. Resolution #10-37, Selection of Board Officers – Pittsburg board by-laws state that the Vice President will naturally transition to president. Dr. Wong requested that board policy 90-100 be suspended since the vice president was not re-elected. Motion made by Wong, seconded by Canciamilla (5/0).
Ayes: Canciamilla, Belleci, Miller, Wong and Ferrante.
   - Election of Board President **– Dr. Canciamilla nominated Dr. Wong, motion was seconded by Belleci (5/0).**
   - Election of Board Vice President – **Dr. Wong nominated Dr. Canciamilla seconded by Ferrante (5/0).**
   - Appointment of Board Secretary – **Dr. Wong motioned to appoint Linda Rondeau, seconded by Canciamilla (5/0).**

B. 2011 Board Meeting Calendar
- The 2011 Board meeting calendar was presented, due to conflicts with the January 26th date; the Superintendent requested that the January 26th meeting date be moved forward one week to January 19th. The January 19th meeting will be a budget overview. **Motion to approve the 2011 calendar made by Wong, seconded by Belleci (5/0).**

C. Designate Board Representatives / Committee Assignments
The board members volunteered for the following committees:
- PUSD Facilities Committee – Ferrante and Miller
- PUSD Budget Sub Committee – Wong and Miller
- PUSD/City or Pittsburg Liaison Committee – Belleci and Wong

Motion to accept committee selections made by Canciamilla, seconded by Wong (5/0).

D. Resolution #10-34, Yearly Authorizations - Motion to approve yearly authorizations made by Wong, seconded by Canciamilla, Ayes: Canciamilla, Belleci, Ferrante, Miller and Wong.

Mr. Ferrante handed the gavel over to Dr. Wong. This was followed by a presentation of a plaque to Mr. Ferrante for his service as President of the Board.

321. COMMENTS FROM PUBLIC – ON ITEMS NOT ON THE AGENDA

Chris Coan – PEA president and Pittsburg resident, welcomed the new board members and invited them to attend a CTA event on January 29, 2011. Ms Coan then stated that PEA does not support Synergy Charter School or Synergy Independent Charter school. Mr. Mims – BPA, acknowledged past president Ferrante, and welcomed Dr. Wong as the new president along with new board members. He also expressed his concern over the recent article in the Contra Costa Times regarding the dropout rate.

322. COMMENTS FROM STUDENT BOARD MEMBER

Mr. Tugbenyoh reported – the ROP Robotics class made it to the finals and will be competing at Disney World in the world competition. He also stated that the high school has been running smoothly.

323. COMMENTS FROM THE SUPERINTENDENT

Ms. Rondeau welcomed the new board members. Associate Superintendent presented at CSBA, PUSD was featured in a case study on financing facilities. She let the Board know there will be a presentation to address the graduation and dropout rate at a February board meeting. She attended the dedication of the Foothill Solar system, and commented that soon the district will have 14 systems up and running.
She was proud to share that a former PHS student, Anna Tiglao, currently attending UC Davis, was one of 22 students with a writing published in the book The Fabric of Our Society. Ms. Rondeau also noted that Pittsburg USD has been awarded the California Mathematics and Science Partnership Grant (CaMPS), which is approx 1.5 million over three years. Ms. Rondeau acknowledged Cal State East Bay, Contra Costa COE, Gibson and Associates, and Director of Special Projects, Monica Pruitt for their assistance in getting this grant. Pittsburg was 1 of 10 recipients statewide.

324. REPORTS / INFORMATION

A. School Highlights – Foothill Elementary School (Araiza)
Mr. Araiza shared the success of the writing program with the board.

B. Construction and Facilities Planning Update (Palacios) Mr. Novero updated the board on the following: **PHS**: The transition from Phase 1 to Phase 2 is continuing. The last of the Environmental clean-up and demolition of the old main campus is nearing completion. The completion of the new campus is continuing. The punch list and warranty items are being tracked in order to achieve final completion and operation. The state Allocation Board approved the funding release for the remaining applications. These applications will generate an additional reimbursement of over $6 million dollars. The total State matching funding for the project is now at $30.5 million. **Riverside Continuation High School:** The plans have been submitted to the Division of the State Architect (DSA) for approval. The expectation is

that the plans will be approved this Spring in order to start the bidding process. **Hillview Playfield:** The City is finalizing the DSA approval of the plans for the joint-use improvements. The plan is to complete the bid process in January and move forward with the construction.

C. Title III Year 4 English Learner Subgroup Self Assessment (ELSSA) and Improvement Action Plan (Colbath) – Ms. Colbath presented information on the Title III Improvement Action plan. Staff, parents and community members worked together to complete a comprehensive plan. The required paperwork has been sent to the state. Willie Mims – expressed concern that Pittsburg USD may not be implementing a true dual immersion program.

325. CONSENT AGENDA

A..	Approval:	Minutes of October 27, 2010	**Rondeau**
B.	Approval	Minutes of November 17, 2010	**Rondeau**
C.	Approval:	Overnight Trip Tuolumne, CA. for Foothill 5th grade students (June 1-3, 2011)	**Araiza**
D.	Approval	Demolition Bricks (from PHS) to be donated to the Eddie Hart All In One Foundation	**Palacios**
E.	Approval:	Budget Adjustments and Financial Status Report	**Palacios**

Motion to approve items A, B, C and E made by Belleci and seconded by Canciamilla. (5/0) Student Board Member agreed.

Comment on Item D: Mr. Ferrante let the public know that he volunteers for the Eddie Hart Foundation. Motion to approve made by Ferrante, seconded by Belleci (5/0). Student Board Member agreed.

326. ACTION ITEMS

Elementary/Secondary Education:

1. Adoption: **(ROLL CALL):** Resolution #10-38, Denying the Charter Petition for Establishment of the Synergy Independent Study Charter School **(Rondeau)**
Ms. Rondeau explained the timeline and process that was put in place to research both petitions. Various parents, community members, and Synergy Staff members spoke in favor of the petition. Pittsburg USD legal counsel, Bill Schuetz, informed that board that after a thorough study of both petitions (Independent Study and Charter school), there were flaws in the petitions and advised the board to deny both petitions. **Motion made by Ferrante to deny seconded by Miller.** Roll call vote: Ayes: Canciamilla, Belleci, Ferrante, Miller, Nos: Wong (4-1). Student Board Member abstained.

2. Adoption: **(ROLL CALL):** Resolution #10-39, Denying the Charter Petition for Establishment of the Synergy Charter School **(Rondeau**) **Motion to deny made by Ferrante, seconded by Canciamilla.** Ayes: Canciamilla, Belleci, Ferrante and Miller. Nos: Wong. (4/1) Student Board Member abstained. President Wong requested a five minute break.

3. Acceptance: Donation of $5,000.00 from Dow Chemical Foundation to Marina Vista Elementary for math and science programs **(Plunkett) – Motion to accept made by Canciamilla, seconded by Ferrante. (**5/0) Student Board Member agreed.

4. Acceptance: Donations totaling $395.03 to Rancho Medanos (from Lifetouch Studios, Reynaldo Padilla, Catalina Bolton, and the Wells Fargo / United Way Campaign **(Peyko) Motion to accept made by Canciamilla, seconded by Belleci (5/0).** Student Board Member agreed.

5. Acceptance: $252.22 Donation from Clayton Perreira-Pico and the Wells Fargo Campaign to Heights Elementary **(Clark) Motion to accept made by Canciamilla, seconded by Ferrante (5/0).** Student Board Member agreed.

6. Acceptance: $885.60 in Teacher Grants from the Assistance League of Diablo Valley to Heights Elementary teachers. (Lisa Abono and Joanne Stark) **(Clark) Motion to approve made by Belleci, seconded by Miller (5/0).** Student Board Member agreed.

Human Resources / Business Services:

7. Approval: Change District Secretary II Position to Business Services Technician (**Epps) Item was removed from the agenda.**

8. Approval: Independent Contract for Safety Officer, Steven Spann (**Epps) Motion to approve made by Ferrante, seconded by Belleci (5/0).** Student Board Member agreed.

9. Approval **Early Retirement Program Offer for Certificated staff (Non-Management**) (**Palacios)** – Mr. Palacios has met with the budget sub-committee which includes representatives from CSEA, PEA, CAPS, PASA, the school Board, and parents, all were in favor of offering another early retirement package. This will result in a savings of 2.8 million over 5 years to the general fund. **Motion to approve made by Ferrante, seconded by Canciamilla (5/0).** Student Board Member agreed.

10. Approval: 2010-2011 First Interim Financial Report (**Palacios)** - **Motion to approve made by Ferrante, seconded by Miller (5/0).** Student Board Member agreed.

11. Approval: Partnership between PUSD and West Coast Jamboree, 2010-2013 (**Palacios) Motion to approve for ONE YEAR ONLY made by Ferrante seconded by Belleci.** Suggestion: ask for sponsors to help defray cost, re-calculate the custodial cost, since tournament runs through normal work day. (5/0) Student Board Member agreed.

12. Adoption: **(ROLL CALL):** Resolution #10-35 Canvassing and Certifying Election Results for Measure L (**Palacios) – Motion to adopt made by Canciamilla, seconded by Ferrante. Ayes: Canciamilla, Belleci, Ferrante, Miller and Wong (5/0).** Student Board Member agreed.

13. Denial Claim Demand for Damages – Submitted by Michael J. Haddad, Attorney representing a minor (**Palacios) - Motion to Deny made by Canciamilla, seconded by Ferrante (5/0).** Student Board Member abstained.

14. Adoption: **(ROLL CALL):** Resolution #10-36, Notice of Completion (Gudgel Roofing, Inc. dba Yancey Roofing) - Los Medanos Elementary School (**Palacios) Motion to adopt made by Canciamilla, seconded by Miller. AYES: Canciamilla, Belleci, Ferrante, Miller Wong (5/0).** Student Board Member agreed.

15. Approval: Change Order #3 from S.J. Amoroso Construction Company for Pittsburg High School – Modernization of New Campus (**Palacios) – Motion to approve made by Ferrante, seconded by Canciamilla (5/0).** Student Board Member agreed.

16. Approval: Change Order #8 from S.J. Amoroso Construction Company for Pittsburg High School – Reconstruction, Increment 2, New Campus (**Palacios) Motion to approve made by Ferrante, seconded by Miller (5/0).** Student Board Member agreed.

Superintendent:

17. Adoption: **(ROLL CALL):** Resolution #10-40, University of California Education Equality (**Rondeau). Motion to adopt made by Canciamilla, seconded by Ferrante, AYES:. Canciamilla, Belleci, Ferrante, Miller and Wong (5/0).** Student Board Member agreed.

18. ---- Call for Nominations for CSBA Delegate Assembly (**Rondeau) –** The board discussed this matter, no nominations were made.

327. COMMUNICATIONS

a. Written Communications from Public Agencies – Read by the Board President – Letter from Contra Costa County Office of Education was received, district budget has been reviewed and accepted.

b. Comments from Board Members –Mr. Ferrante attended the CSBA conference, along with other board members. He also attended the Solar Energy ribbon cutting at Foothill. Mr. Miller expressed his gratitude on becoming a board member. He also attended the CSBA conference. Dr. Wong has visited some of the sites and observed the breakfast programs, he did notice that the breakfast program does interrupt the instructional program.

c. Comments from Employee Representatives - Chris Coan let the board know that mediation is scheduled for January 5th with regards to extended Monday staff meetings. She has also filed a level one grievance with regards to ELD time and an informal grievance regarding the breakfast program.

d. Comments from Community Organizations - Willie Mims – BPA, questioned the West Coast Jamboree budget and informed the board about a law banning all school districts from charging for school supplies.

328. FUTURE REQUESTS

Dr. Canciamilla requested data on students attending home schools.

329. NEXT BOARD MEETING

The next regular School Board meeting will be held on Wednesday, January 12, 2011. – Meeting adjourned at 11:50 p.m.

Respectfully Submitted,

_____

Linda K. Rondeau
Superintendent/Secretary to the
Pittsburg Board of Education

Adopted on: _____

Synergy School
Response to Exhibit "A" Findings of Fact

I Regarding Satisfying the Signature Requirement (pg 3 in Findings)

A. 1. and 2. Synergy's petitioners submitted well over the required number of teacher signatures to fulfill this petitioning requirement. The teacher signatures submitted contain an indicator of which school they were meaningfully interested in seeking employment. Regarding item #2, Synergy's petitioners submitted the parent signatures it had acquired at the time, reflecting approximately 90 students. They did so for the benefit of the district enabling them to observe the number of in-district and out-of-district students who were meaningfully interested in future enrollment for the purposes of a evaluating a future Prop 39 facilities request. The petitioners did not see a need to submit parent signatures on appeal to the county since they were not relevant in meeting the signature petition requirement.

II Regarding the Likelihood of Successful Implementation of the Program (pg 4 of Findings)

1. (a) The petitioners respectfully disagree with the district's unsubstantiated assumption regarding the school's ability to achieve its intended enrollment numbers. The petitioners gathered ample signatures and continue to receive inquiries from parents meaningfully interested in enrolling their children. It should also be noted that the three closest operating charter schools, all located in Antioch, are at capacity since their first day of operation. Antioch Charter Academy I has wait lists of 70-100 students per grade level prior to their public lottery each year. Antioch Charter Academy II has slightly lower wait lists but as with RAAMP Charter School both schools remain at full capacity throughout the school year. Only one of the schools mentioned above serves middle school students furthering the likelihood that Synergy will not encounter problems maintaining full enrollment for its middle and high school programs. If anything, Synergy's founders are concerned they will not be able to offer enrollment to all those who wish to attend.

1. (a)(i) Synergy's two proposed schools will not compete for students. They are two completely different education deliveries that will attract different populations of students.

1. (a)(ii) The district's Findings express concern regarding Synergy's ability to enroll their projected number of students because of the opening of Flex Academy. Unfortunately, the district's report does not take into consideration that Flex Academy and Synergy School are two different education deliveries serving different grade levels. Flex Academy is a computer based, independent study education program serving only grades 9-12. Synergy School is a site and classroom based program serving grades 6-8 years one and two beginning with the addition of grade 9 year three.

1. (b) With respect to an annual reserve provision in the budget, it is the petitioners understanding that the ed code the district listed in their Findings does not apply to charter schools. However, a 5% cumulative cash reserve is clearly provided for on line 119 in Synergy's Planning Budget.

1. (c) The district states inaccurate figures regarding PCSGP grant funding. The school will receive a higher level of funding based on the district's Program Improvement status and the high numbers of socioeconomically disadvantaged students Synergy anticipates serving based on PUSD data. The petitioners used the funding amounts and prior year's disbursement schedule which was all that was available from the Department of Education at the time of the original submission. The funding amounts have remained basically the same but the disbursement dates have been changed based on current information from the state. The funding schedule is available through the PCSGP funding guide available through the CDE. The petitioners have also emailed a copy of this guide for easy reference to Jane Shamieh at CCCOE.

With respect to the unsubstantiated assumption regarding potential denial of PCSGP funds, Synergy has no reason to believe this to be an issue. The PCSGP grant funding guide mentioned above states that petitioners are eligible for funding for up to three schools in the start up phase. Therefore, considering the proposed schools to be financially separate entities, each would be entitled to funding as such. Furthermore, opening multiple schools in a given school year is not uncommon for non-profits that operate multiple schools like Green Dot Charter Schools. This is also common practice for Charter Management Organizations. According to the California Charter Schools Association there is no precedent of funding penalty for opening two schools simultaneously under one non-profit organization.

1. (d) The school's revenue limit calculation rates are set in the budget workbook to automatically calculate at 95% which is consistent with the state's average attendance rates.

1. (e) Synergy's invitation to apply for the Walton grant has the potential of adding an additional $250,000 to our first year budget. The petitioners feel that potential grant money should not be added to a budget until the award is granted. We did not include this amount in our budget and are confident that we can open and sustain our school on the budget provided.

1. (f) Projected costs for special education will be dependent upon a number of factors including but not limited to the particulars of Synergy's special education student population as well as the particulars of the Memorandum of Understanding between the county and the school. For example, our projected costs will be dependent upon what services the county may be able to provide and what services will be contracted out or provided for in-house.

1. (g) According to the office of the California of the California State Lottery, the amount listed in the planning budget regarding lottery revenues are accurate numbers based on current funding amounts.

1. (h) The Economic Impact Aid (EIA) revenues are based upon the percentage of the anticipated enrollment of economically disadvantaged and English learner populations as estimated using Pittsburg Unified School Districts student demographic data. The amounts are automatically calculated in the budget workbook based on this data.

2. With respect to facilities the petition identifies the location of the school to be within the city of Pittsburg and within the Unified School District boundaries. Page 109 indicates the number of classrooms as well as space for a curriculum library, offices and storage of records. Estimated cost of said facilities is provided for on line 35 of the startup budget and on line 87 of the planning budget. In our work with Colliers International agent, Bill Hillis, we have identified the following potential school site we will pursue once approved and funded. Please note that our budgeted allocations for lease costs exceeds the cost of the properties we are currently considering.

Location: 980 Garcia Ave Suite C, Pittsburg Initial Lease Cost*: 150,000
*10,000 sq ft are currently available at this location for year one operation. An additional 8000 sq ft can be made available as the school increases its enrollment.

3. The California Charter Schools Association fully supports Synergy Education Project's decision to develop and operate two schools. Once approved Synergy will be one of a handful of charter schools across the state that operates a site and independent study program side-by-side. It should also be noted that co-founder, Cheryl Townsend, has previous experience working for a charter school with a similar dual program.

Yes, it is true that Synergy's co-founders made a decision to split the schools once they were made aware that they could better maximize their funding potential. It makes sense that an organization would increase its chances of survival by maximizing its funding potential. Again, Synergy has no reason to believe that it will be penalized in any of its grant funding sources because of the separation of the school into individual petitions.

B. Regarding Petitioners History of Charter School Involvement

It is unfortunate that the creators of Exhibit A chose this attack on the professional credibility of Cheryl Townsend, one of Synergy's co-founders. Ms. Townsend was employed as a part-time teacher at New Hope Charter School for approximately 18 months prior to the school's closure for issues apparently related to finance. She held no administrative responsibilities. Ms. Townsend also held teaching positions at Fort Ross

and West Sonoma Charter Schools which were not closed for the reasons stated but rather for reorganization under one charter that would become Pathways Charter School. The development and implementation of Pathways Charter School is where Ms. Townsend held her first school leadership responsibilities. The report also neglects to state that in her last position as principal, her school's API scores increased substantially, 15-26 points annually, under hers and the school's leadership team efforts.

III Regarding the Soundness of the Educational Program

A. Regarding the Soundness of the Educational Program

1. The petition speaks to all legal requirements regarding Synergy's obligations to serve its students in special education. Synergy's petitioners are well experienced and trained in this area. As an arm of the county and hopefully, a member of the Contra Costa County SELPA, Synergy will meet its legal obligations and serve its special education students well according to all federal and state laws. Synergy fully expects that the details of how its special education students will be served will be evident through the terms negotiated in the Memorandum of Understanding between the school and the county.

2. The petitioners feel that what grade levels they serving has little, if anything, to do with the soundness of the education program. The decision to structure growth and development of the school is based upon many factors the most important being to demonstrate full competence at serving all grade levels offered before moving on to serve additional grade levels.

IV Regarding the Required Affirmations Contained in the Petition

A. Page 6 of the petition, bullet point number 7, clearly demonstrates the required coverage of non-discriminatory practices. This assurance is also indicated on page 96.

B. Page 6 of the petition, bullet point number 5, states that Synergy will enroll all students who wish to attend. This assurance is also indicated on page 96.

V Regarding Reasonably Comprehensive Descriptions of the Required Elements

A. Regarding the Description of the Education Program Element A (pgs 8-11 in Findings)

1. and 2. Synergy's education framework is carefully described on pages 17-23 and pages 26-32. The philosophies and application of education strategies through well organized Project Based Learning design is considered researched best practice as it applies to classroom instruction and learning. Numerous resources are cited throughout the petition that speak to the research that supports Synergy's education program.

Project Based Learning strategies as applied to learning in the core curriculum areas are also highly effective within English Learner populations because they call for a high degree of scaffolded, integrated learning opportunities. Synergy's education plan for EL students is carefully detailed on pages 38-41. In addition, as described on page 40, Synergy's EL beginning and intermediate level students, as part of the extended day program, will participate in PBLEL 7+ hours per week which includes intensive instruction and learning that is exclusively EL focused.

3. Transferability of units is covered thoroughly on page 34 of the petition. The petitioners are working closely with Chase Davenport from the California Charter Schools Association in our plan to apply for WASC accreditation year 1 with an additional plan to request that UC retroactively approve our a-g courses ensuring the ability of our students to submit complete applications to the colleges of their choice. Mr. Davenport has extensive experience in working with accreditation including serving on numerous teams as well as guiding many charter schools through this process.

4. Language regarding how the school serves socioeconomically disadvantaged students is not legally required. However, it should be noted that the petitioners feel that numerous factors in terms of the schools design target this population of students. The extended day education program and Mentor Teachers along with a number of support systems described in the Student Services section are just a few things that provide for an extra layer of support for students in need. If the board or county staff feels there should be more descriptive language regarding socioeconomically disadvantaged students, the petitioners would be willing to work with the county staff on specific language that would become part of the Memorandum of Understanding.

5. (a) The district's Findings demonstrate a misunderstanding of how special education services are identified when a petition states that the charter school will function as an arm of the district. As would be the case if the charter school functions as an arm of the county, the details of services provided would be described in the Memorandum of Understanding (MOU). The petitioners would like to reiterate that the school will strictly adhere to all federal, state and local laws and regulations regarding identification and service to all its special education students.

5. (b) The petition states that the school provides a full inclusion program for all students with an active IEP. Students will receive services in accordance with the terms of their IEP. A determination must be made by the IEP Team as to an appropriate placement which must provide the least restrictive environment under FAPE. A student would be recommended for an alternate placement should the IEP team determine that Synergy School is not an appropriate placement. The student's placement would be dependent upon a variety of factors and be decided upon by the IEP team.

5. (c) Interventions, modifications and accommodations that become a part of an individual IEP will be strictly adhered to as mentioned in the petition. The students classroom teachers, the Special Education Coordinator, the parent and all service providers are responsible for ensuring that all interventions, modifications and accommodations are being met according to the IEP.

5. (d) The petition states that students enrolling with an active IEP will receive services in accordance with the terms of their existing IEP. As mentioned above, a determination must be made by the IEP Team as whether or not Synergy School provides the least restrictive environment for a particular student. If it is determined that a particular placement is inappropriate the student would be recommended for an alternate placement. That placement would be dependent upon a variety of factors present at the time of the IEP.

5. (e) See above.

5. (f) The petition does not state that all students found ineligible for special education services will be recommend for a Section 504 Plan. The petitioners are knowledgeable and experienced in this area and would ensure that its staff and service providers made appropriate referrals for Section 504 Plans.

5. (g) (i)-(vi) This entire section pages 10-11 of the district's Findings demonstrates a lack of understanding of how a charter school functions as an "arm of its authorizer." Who provides the special education services, how the program is managed, the proposed relationship with the local SELPA and how funding is handled are all parts to be agreed upon in the form of the MOU between the petitioner and the authorizer.

5. (h) The rights of parents to file complaints regarding special education is described on pages 43-44 of the petition. A parent's right to file a complaint regarding special education with the California State Department of Education or the Office for Civil Rights in the case of a Section 504 Plan is provided for, by law, at each and every IEP and Section 504 Plan meeting.

6. The Fitness Program described on page 28 and indicated in the daily schedule on pages 24-25 describes the physical education programming.

B. Regarding the Description of Measurable Pupil Outcomes Element B (pg. 11 in Findings of Fact)

(a)-(b) Pages 51-56 clearly demonstrates the student goals as they correspond with student achievement and how these are evaluated to determine the effectiveness of the education program.

(c) The petition makes reference to the school's API on page 51 and again on page 56 as well as the schools goals for achieving and exceeding annual growth targets.

C. Regarding Methods to Assess Progress Toward Measurable Outcomes (pg.11)

1.-2. Synergy's petition has a highly organized and extensive set of assessments that are consistent with the school's goals and measurable outcomes. Pages 58-64 specifically list the names of the assessment programs to be used including the state mandated STAR Testing Program.

D. RegardingSynergy's Governance Structure Element D (pg. 11-12 of Finding)

1. Synergy's current Bylaws are in draft form and will contain all required Bylaws by the time of the first formal board meeting in February. Synergy's attorneys will review the Bylaws as soon as possible in order to ensure legal compliance.

2. Charter schools are not held to Government Code Section 1090. They are governed by non-profit laws and regulations. Synergy's Conflict of Interest Policy draft will be approved at the first formal meeting of Synergy's board and reviewed by the school's attorneys as soon as possible.

3. The Petitioners are thoroughly aware of the large limited English speaking population in the city of Pittsburg and surrounding communities. Synergy prides itself on their awareness and sensitivity to the needs of this community. Even its initial community outreach brochures and informational packets are currently available in Spanish. Synergy's co-founders have sought out and acquired a parent volunteer to organize the Parent Advisory Committee in part because she is bi-lingual.

4. Delegation of authority to the appropriate, qualified employees is standard practice. There are no specific tasks in the Findings that indicate that Synergy would not handle the delegation of tasks appropriately whether it be a delegation of tasks by the school's board or programs director as outlined in the governance section of the petition.

5. Members of Synergy's Governance Team will hold their first formal board meeting in early February. Bylaws, in typical fashion, will be adopted at the first formal board meeting. In the mean time Synergy's Governance Team meets regularly where it continues its work on the completion of the school's Bylaws and other governance related items in preparation for the school's opening.

6. The oversight fee per ed code 47613 is provided for on line 107 of Synergy's Planning Budget.

E. Regarding Employee Qualification Element E (pg 13 of Findings)

1. Monitoring staff including credentials falls under the job description of the Programs Director or designee listed on page 77.

2. The school's Affirmative Action Policy is described on page 85. A more formal Affirmative Action Policy will be drafted and adopted by the board.

F. Regarding Health and Safety Procedures Element F (pg 13 of Findings)

1. Page 92-94 of the petition describes how Synergy will meet all laws, federal state and local regarding the facilities. Records documenting compliance in is this area are described on page 118.

2. Page 72 states the types of policies the school will carry as well as the minimum amounts of liability insurance required. Line 85 of the Planning Budget demonstrates the estimated costs for such insurance. This cost is based on the recommendation of the California Charter Schools Association. Pages 6, 72-73, And 121-122 contain language about how Synergy holds the county harmless for all Synergy's debts and obligations.

G. Regarding the Description of the Means to Achieve Racial and Ethnic Balance Element G (pg 13 of Findings)

1. Page 95 describes in detail how the school will attempt to achieve racial and ethnic balance as it applies to Pittsburg Unified School District's demographic data.

2. The EL section in Element A pages 38-41 provides for a strong EL education program. The petitioners respectfully disagree that it is "inadequate" considering that it offers instruction above and beyond what it currently being offered EL students in the district. The extended education program actually increases the likelihood of achieving racial and ethnic balance.

H. Regarding Description of Admission Requirements Element H (pg 14 of Findings)

1. The Random Public Lottery section described on pages 97-98 in the petition was written using the CDE's Request for Applications for Public Charter Schools Grants Application Guide, Appendix J. The lottery exemptions are fully compliant with all federal and state regulations.

I. Regarding the Description of Annual Independent Financial Audits Element I

1. and 2. A complete description of the process by which the school plans for its annual independent financial audits is fully described on page 99 along with the process for managing deficiencies or audit exceptions as well as the December 15th deadline for the submission of such reports.

J. Regarding Student Suspension and Expulsion Element J (pg 14-15 of Findings)

1. through 7. The petition describes the suspension and expulsion procedures beyond the extent that it is required. However, the petitioners agree that it would be of benefit to the student and their parents/guardians if an appeal process was made available to them in the event they disagreed with Synergy's Board of Directors final decision. Synergy would propose that an appeals process provision become part of the Memorandum of Understanding whereby the County Board of Directors is willing to hear such cases of suspension and expulsion on appeal if the County Board of Directors is amicable to such an arrangement. The petitioners would also like to acknowledge their willingness to assist the parents of expelled students in finding suitable education alternatives during the period of such expulsions.

K. Regarding Attendance Alternative Element L (pg 15 of Findings)

1. This section of the petition is fully compliant with the requirement. Furthermore, the petitioners question the meaning of the words used in this Finding.

L. Regarding the Dispute Resolution Procedures Element N (pg 16 of Findings)

1. and 2. The district's right to begin revocation proceedings is not a required element of a petition but it is mentioned as a district's right on page 113 of the petition. Page 114 mentions a 20 day deadline from the receipt of the dispute statement. If the county is not amenable to such language the petitioners would agree to negotiate more specific terms through the Memorandum of Understanding.

M. Regarding School Closure Procedures Element P (pg 16 of Findings)

1. Synergy Education Project in a nonprofit organization which serves no other purpose other than education of students as provided for in its Articles of Incorporation. Should Synergy School close, any remaining assets would be used for the purposes of education. In other words, there no "non-charter school related purposes" as mentioned in the Findings.

2. and 3. Page 116 describes provisions for filing the required reports and maintains its responsibilities in holding the county harmless for any debts incurred.

CONTRA COSTA COUNTY BOARD OF EDUCATION

AGENDA ITEM

ISSUE *(clear, concise statement for the Board meeting agenda which indicates exactly what will be discussed)*

Consider Action to Either Deny the Petition to Establish the Synergy Charter School and to Adopt Resolution No. 11-10/11 reflecting denial of the Petition and related factual findings, or to Declare Intent to Approve the Petition and specify any conditions necessary for approval.

ANALYSIS *(overviews of the issue -- Attach all background information Board members will need to consider or vote on this issue. As appropriate, refer to the "who, what, when, and how" elements of the item.)*

The Board will consider taking action either to deny the Petition and adopt Resolution No. 11-10/11 reflecting denial, or to declare its intent to approve the Petition and specify conditions that must be met prior to approval.

RECOMMENDATION *(Advise approval or adoption, or note that the item is for information only.)*

The County Office of Education Administration recommends denial of Petition to Establish the Synergy Charter School for the reasons expressed in the attached Findings of Fact.

Approved _____
Associate Superintendent

Date 2/11/11

Item No. 7.2.3

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Bd. Agenda 02/16/11

issue021611c.doc

IN THE CONTRA COSTA COUNTY BOARD OF EDUCATION

OF

CONTRA COSTA COUNTY, STATE OF CALIFORNIA

In the Matter of Denying Petition to Establish the Synergy Charter School and Adopting Written Findings of Fact	)))	Resolution No. 11-10/11

WHEREAS, on December 15, 2010, the Governing Board of the Pittsburg Unified School District denied the petition to establish the Synergy Charter School; and

WHEREAS, California Education Code section 47605 (j) provides that if the governing board of a local school district denies a petition to establish a charter school, the petitioner may submit the petition for establishment of the charter school to the County Board of Education; and

WHEREAS, pursuant to California Education Code section 47605 (j), on December 21, 2010, lead petitioner Cheryl Townsend submitted a timely appellate petition to establish the Synergy Charter School to the Contra Costa County Office of Education, and

WHEREAS, pursuant to Education Code section 47605 (b) and (j) and Title 5, California Code of Regulations, § 11967 (d), petitioner agreed to an extension of time for the public hearing and decision on the petition; and

WHEREAS, the County Board of Education conducted a public hearing on the provisions of the proposed charter on February 2, 2011, at the Contra Costa County Office of Education and assessed the level of support for the petition from parents, the Pittsburg Unified School District, and the community; and

WHEREAS, County Office of Education administrators have reviewed and analyzed the petition and supporting documents and have identified deficiencies in and concerns related to, the Petition, and have recommended that the County Board of Education deny the petition for the reasons expressed in Exhibit A, hereto, Findings of Fact; and

WHEREAS, pursuant to California Education Code section 47605 (b) (1) and (2), the County Board of Education finds that granting the petition to establish the Synergy Charter School is not consistent with sound educational practice;

NOW, THEREFORE, BE IT RESOLVED, that the Findings of Fact attached hereto as Exhibit A are adopted as the factual findings specific to the petition, and support that:

1. The proposed charter school presents an unsound educational program for the pupils to be enrolled in the charter school; and

2. The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

BE IT FURTHER RESOLVED, that the Petition to Establish the Synergy Charter School is denied;

PASSED AND ADOPTED by the Contra Costa County Board of Education on 16th of February 2011, at a regular meeting of the Board by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I hereby certify that the foregoing resolution was duly introduced, passed and adopted as stated.

_____
Pamela M. Mirabella, President
Contra Costa County Board of Education

Contra Costa County Board of Education
Petition for Establishment of:
Synergy Independent Charter School
Synergy Charter School
Report of Findings – February 16, 2011

INTRODUCTION

The Charter Schools Act of 1992 permits school districts to grant charters for the operation of charter schools. (Ed. Code section 47600, et. seq.) Charter schools "are part of the Public School System," but "operate independently from the existing school district structure." (Education Code section 47615, subd. (a) (1), 47601) Charter schools are established through submission of a petition by proponents of the charter school to the governing board of a public educational agency. The governing board must grant a charter "if it is satisfied that granting the charter is consistent with sound educational practice." (Education Code section 47605, subd. (b)) The governing board of the school district can only deny a petition for establishment of a charter school if it finds that the particular petition fails to meet certain enumerated statutory criteria and adopts written findings in support of its decision. Once a governing board has granted a petition, a charter school is created as a separate legal entity.

Although charter schools are exempt from many of the laws governing school districts, in return for that exemption the Education Code holds them to a high standard: they must live up to all of the commitments in the charter that they make to school districts, parents, community members, and students concerning pupil instruction, community/parent involvement, fiscal accountability, and student safety.

PROCEDURAL STATUS

The petitioners submitted their petition to the Pittsburg Unified School District ("District") in December 2010. The District denied the petition based on its analysis in the five areas provided in Education Code section 47605(b).

Under Education Code section 47605(j)(1), if the District denies a charter petition, the petitioners may appeal that denial to the County Office of Education. The County Office must also analyze the charter(s) in the areas provided in Education Code section 47605(b). If the County Office grants the charter(s), the County Office becomes the supervisory agency over the charter school(s). The

District's obligations with respect to the charter school would essentially be limited to providing facilities, should the charter school make a request under Proposition 39 and prove entitlement. (*See, e.g., Sequoia Union High School District vs. Aurora Charter High School* (2003) 112 Cal.App.4th 185) The petitioners may also appeal a County Office's denial of a charter to the State Board of Education under Education Code section 47605(j)(1).

REVIEW OF THE PETITION

Education Code section 47605(b) sets forth the following guidelines for governing boards regarding the review of charter petitions:

"In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged."

"A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice."

"The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.
(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.
(3) The petition does not contain the number of signatures required by statute.
(4) The petition does not contain an affirmation of each of the conditions required by statute. (See attached Education Code section 47605(d)(1))

In addition, the statute requires a fifth area of review, in which the petition must include "comprehensive descriptions" of sixteen specific elements, noted as items "A" through "P" from Education Code section 47605. (See attached).

Staff has conducted a full review of the charter petition under the criteria set forth in the law and provides the following written analysis.

(4) "The petition does not contain an affirmation of each of the conditions required by statute." Education Code 47605(d)(1) & (2):

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of the characteristics listed in Section 220. Except as provided in paragraph (2), 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 legal guardian, within this state, except that an existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

"A - P" requirements in California Education Code Section 47605(b)

(A) (i) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the "A" to "G" admissions criteria may be considered to meet college entrance requirements.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.
(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.
(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.
(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.
(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.
(O) A declaration whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.
(P) A description of the procedures to be used if the charter school closes. The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.

Synergy School
FINDINGS OF FACT

1. **The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition because they have presented an unrealistic financial plan. The proposed operational budget does not include reasonable estimates of all anticipated revenues and projected expenditures. In its totality, the proposed budget does not appear viable.**

A. There is no guarantee that Synergy Charter School ("Synergy") will secure a loan of $180,000 from the California Department of Education (CDE) Charter School Revolving Loan program. The petition has no alternative funding plan for this significant amount of revenue.

Petitioner assumes $180,000 in Loan Financing from the California Department of Education ("CDE"). This funding source is not guaranteed. The CDE has indicated that no loan amount is guaranteed and that applications are evaluated and loans are issued based on a combination of conditions, such as financial need and the ability to repay the loan in the future. Also, due to depletion of funds, in 2009-10, charter schools that were granted this loan only received $100,000 each. (Exhibit 1)

In the budget narrative in the petition, it states, "The Charter School Revolving Loan will be used to help secure solid cash flow in the first years of development." This means that, in the event that the loan is not granted or is less than anticipated, Synergy will be unable to meet its financial obligations. Synergy has no alternative funding plan in the event that this loan is not granted or if a lower amount is granted.

B. There is no guarantee that Synergy School ("Synergy") will receive the Public Charter School Grant Program (PCSGP) planning and implementation grant award. The petition has no alternative funding plan for this significant amount of revenue.

The purpose of the PCSGP is to provide financial assistance for the final planning and initial operations of newly established and conversion charter schools. The California Department of Education (CDE) awards grants depending on annual allocations from the United States Department of Education.

Synergy's planning budget assumes receipt of this grant in the amount of $575,000. The grant amount is available to applicants who meet either of the two criteria: 1) Applicant's school is located, or a majority of the students served by the Applicant's school reside, in an attendance area of a school that has been determined to be persistently lowest-achieving, or eligible for Title I School Improvement Grant funding; or 2) Applicant's school is located,

or a majority of the students served by the Applicant's school reside in an attendance area of a school that is in Program Improvement ("PI") Year 3, 4 or 5, and has an API decile rank of 1 or 2. (Exhibit 2)

Not all of the schools in the Pittsburg Unified School District ("District") are considered "persistently low-achieving" and none of the schools qualify for Title I SIG funding because they are not in the lowest 5 percent of low-achieving schools. In its response to District's Findings of Fact, Petitioner insists that the school will receive the grant due to the District's Program Improvement ("PI") status. Therefore, it is assumed that criteria number 2 is the one that Petitioner will use to obtain the grant.

The PCSGP guide applies the criteria to the school attendance area, not the district. It is possible for a district in PI status to contain schools that are not in PI status. Also, the PCSGP criteria for the $575,000 grant award requires that the school's PI status be in year 3, 4 or 5 and the school has an API decile rank of 1 or 2. Although the District is in Program Improvement status, seven of its 12 schools are not in PI Year 3, 4 or 5 (Exhibit 3). Of the 5 schools that are in PI Year 3, 4 or 5, only 2 have a decile rank of 1 or 2 (Exhibit 4). Whether or not Synergy will receive the grant depends on the school attendance area in which the charter school is located and Synergy has not yet secured a location for their facility. Since Synergy may not meet the grant criteria, it is not guaranteed that Synergy will receive the $575,000 grant.

The lower PCSGP grant amount of $250,000 is only available to non-classroom based charter schools. Therefore if Petitioner does not qualify for the $575,000 grant, there is no other grant available. It is difficult to ascertain if Synergy will qualify for this grant since a location for the school has not yet been determined.

Synergy's Planning Budget relies solely on the PCSGP grant in Year 0 for start up costs, which includes funding for equipment, furniture, facilities, insurance, custodial cost, materials, supplies and textbooks. Without this grant Synergy will be unable to function as a school or meet it financial obligations. In Year 1 the grant is relied upon for cash flow for the first two months of operation and in subsequent months is used in combination with the Charter School Entitlement Block Grant (ADA funding for charter schools) for cash flow. In its Cash Flow Projection, Year 2, Synergy relies on the contribution of PCSGP grant funds to smaller revenues to cover monthly salary costs, among other items. If the grant is not awarded Synergy will be unable to cover its basic operational costs and Synergy has no alternative funding plan.

C. The proposed budget does not account for the cost of potential special education services, including additional legal fees, contract services, staff, or specialized equipment.

The budget shows no receipt of SELPA revenue due to Petitioner's assumption that the SELPA revenue will pass to the agency providing special education services. In the Planning Budget on the line, "Transfers of Apportionment to LEAs (Special Ed)" is an

expense item of $24,000 in the first year and approximately $31,200 in the second year and $41,600 in the third year. These amounts demonstrate Synergy's estimate of the additional cost, on top of SELPA revenue, of providing special education services (often referred to as "encroachment"). These amounts, which are approximately 1.5% of Synergy's budget are low estimates compared to the general education contribution to special education throughout Contra Costa. For 2009-10 the average general fund contribution for Contra Costa SELPA districts was 29.22%. A single student with special needs or a due process complaint can drive up the costs of special education.

In its response to the District's Findings of Fact, Petitioner states that "Who provides special education services, how the program is managed, the proposed relationship with the local SELPA and how funding is handled are all parts to be agreed upon in the MOU between the petitioner and authorizer." Funds still must be appropriately allocated in the budget in preparation for such costs.

The budget narrative in the petition shows a .5 FTE special education coordinator and 12 FTE teachers. A half-time special education coordinator is insufficient for the necessary oversight and planning for a school with an anticipated enrollment of 225 students in Year 1 and 300 in Year 2. The proposed budget does not plan for other special education costs, such as legal fees, unanticipated staff costs, and special equipment.

In Petitioner's response to the District's Findings of Fact regarding this issue, Petitioner states that the projected costs for "special education will be dependent on a number of factors including but not limited to the particulars of Synergy's special education student population as well as the particulars of the Memorandum of Understanding.....For example, our projected costs will be dependent on what services the county may be able to provide...." As stated above, the manner of services can be detailed at a later date in the MOU, but the costs need to be accounted for in the school's projected budget, regardless of who provides the services. The projected budget does not provide adequate assurance that Petitioner has developed a viable budget that anticipates the cost of legally mandated special education services.

2. **<u>The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition because the petition fails to indentify where Synergy Charter School will be located.</u>**

Education Code section 47605(g) provides, "The governing board...shall require that the petitioner or petitioners provide information regarding proposed operation and potential effects of the school, including, ... facilities to be utilized by the school." It also goes on to state that the "description of the facilities to be used by the charter school shall specify where the school intends to locate." Furthermore, section 47605(j)(1) states that a charter petition that is submitted to a county board, "shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate."

In response to the District's statements regarding the lack of facilities, Petitioner refers to the section in the petition that identifies the city of Pittsburg and then references a site that petitioners are "considering." These vague references do not comply with the Education Code, which clearly requires identification of a specific site. The presumed legislative intent of this code section is that review of a charter includes ensuring that the site is sufficient for a school. Without an identified site the proper evaluation can not be made. There is also a concern that the petitioners may have difficulties finding an appropriate site in time for the start up of school.

3. The Charter School presents an unsound educational program for the pupils to be enrolled in the charter school, in that the program is not likely to be of educational value to some pupils who attend.

A. The plan for English learner students ("EL") does not adequately address the unique needs of students who are English language learners.

On page 39, in regards to the core program, Project Based Learning ("PBL") the petition states that "The PBL learning environment gives concrete meaning because of the constant exposure to real time concepts in English and their native language. The use of the computer as opposed to text based learning gives the student more control over how to access the standard based information they must learn." The petition gives an example of an online coursework program that could address the needs of ELs. Although the Project Based Learning Program may be an effective learning model for native speakers, it should not be presented as a program that will serve the unique needs of ELs.

EL students require a full instructional program that incorporates the learning of curriculum with the mastery of the English language. The fundamentals of teaching language acquisition require direct, explicit instruction in vocabulary and language development along with guided interaction with peers. Successful programs for ELs are designed around the instructional approach, i.e., a teacher who is able to plan and deliver the lessons, assignments, and activities in a way that the student is able to gain skills in both the subject matter and English. Most educational methods and theories, based on research by linguists, focus on the strategies utilized by the instructor, not the curriculum or the assignments.

That being said, Synergy does provide for the Majors Program for English Learners ('PBLEL"), for beginning and early intermediate level EL students. The needs of Intermediate and Advanced level ELs are not addressed. In Petitioner's response to the District's concern in this area is that, "Project Based Learning strategies as applied to learning in the core curriculum areas area also highly effective with English learner populations because they call for a high degree of scaffold, integrated learning opportunities." As stated above, the PBL is not an EL program and should not be presented as such.

B. The petition does not provide an adequate plan for the provision of special education services.

There is no comprehensive plan for serving the needs of all special education students. The petition does not provide adequate staffing for special education and has no plan for the services beyond the general education classroom.

The special education program offered by Synergy is described on page 45 of the petition as a full inclusion program where, "special education students may be served outside the general education program for periodic services as called for in their Individual Education Program (IEP) but shall otherwise be fully included in the general education program." On page 48, with regards to special education strategies for instruction, it states, "Synergy will provide a comprehensive full inclusion program that may include specialized individual and small group tutoring through Synergy's extended day program. Each student's IEP requires different kinds of accommodations and modifications for instruction....Synergy's Special Education Coordinator will oversee all students with IEPs and communicate regularly with the student's Mentor Teacher and other classroom teachers to ensure the education program as called for in the IEP is being administered appropriately." The plan assumes that all special education students will be learning disabled students who can be educated in a full inclusion model. There is no plan for students whose IEP calls for a more restrictive environment or other designated instruction services. The petition provides no plan for students with IEPs that require a more restrictive environment.

The lack of a planning for all special education students is also illustrated by the fact that the staffing provided in the petition for special education includes a .5 FTE special education coordinator. The petition describes the duties of this coordinator as, IEP evaluations, coordinating services, communicating with IEP team members and acting as the IEP liaison in referral to "other support systems as needed." The only other special education staff in the petition is a counselor to provide counseling support, if required on the IEP. A half time special education coordinator is not sufficient for a school anticipating enrollment of 225 students the first year and 300 the second year.

Furthermore, on page 46 the petition states that when students enroll with an active IEP a meeting will be held, "to determine the need for evaluations, appropriate placement and/or changes to the IEP goals relative to Synergy's unique education delivery." Goals on a student's IEP must be developed based on the student's needs, not the school's delivery. In Petitioner's response to the district's similar concerns, Petitioner states, "if it is determined that a particular placement is inappropriate the student would be recommended for an alternate placement." The school is required to provide special education services to a student as called for in the IEP, not refer the student to another placement if the students' needs do not fit the delivery system of the school.

On page 46 the petition, states, "Synergy's Individualized Learning Program model naturally and organically supports many students with learning disabilities as it offers differentiated instruction and learning opportunities." This statement appears to imply that the ILP will provide what the IEP is intended to provide, which is inappropriate and not legally compliant. A student with disabilities who requires special education services should receive the services detailed in the IEP by a qualified staff member. The ILP may be another tool in the school program that individualizes and differentiates instruction and assists all students but is inappropriate as an explanation on how special education students will receive services required by their IEP.

In its response to the District's concerns about how special education services will be administered, Petitioner states that the detail of services will be described in the MOU. Obviously, an MOU with an agency will provide more detail but Synergy does not provide in the petition even a general plan for special education. As a result, it is impossible to evaluate the soundness of the special education components of the educational program.

Synergy Charter School has not adequately addressed the needs of special education students.

Exhibit 1

Funding Results

Charter School Revolving Loan Fund

Note: Recipients and funding amounts are subject to budget and administrative adjustments.

Funding results for fiscal year 2009-10.

Program Questions: Ruthann Munsterman, e-mail: rmunsterman@cde.ca.gov, tel. 916-445-7689

Fiscal Questions: Julie Klein-Briggs, e-mail: jbriggs@cde.ca.gov, tel. 916-322-1646

County Name	Local Educational Agency	School	Loan Number	Amount	Date Issued
Alameda	Hayward Unified	Golden Oak Montessori of Hayward Charter School	09-008-1	$200,000.00	9/21/09
Alameda	Alameda Unified	Nea Community Learning Center	09-009-1	$100,000.00	9/21/09
Alameda	Hayward Unified	Impact Academy	09-013-1	$150,000.00	12/9/09
Alameda	Alameda Unified	NEA Community Learning Center	09-015-1	$150,000.00	1/21/10
Alameda	Oakland Unified	Aspire ERES Academy	09-019-1	$250,000.00	3/8/10
Alameda	Oakland Unified	ARISE High	09-029-1	$100,000.00	5/19/10
Alameda	Alameda Unified	The Academy of Alameda	09-080-1	$100,000.00	7/2/10
Butte	Chico Unified	Chico Green School	09-067-1	$100,000.00	6/23/10
Contra Costa	Antioch Unified	R.A.A.M.P. Charter Academy	09-001-1	$250,000.00	8/26/09
El Dorado	California State Board of Education	Pacific Technology School Orangevale	09-022-1	$250,000.00	3/23/10
El Dorado	California State Board of Education	Aspire Alexander Twilight College Preparatory Academy	09-030-1	$100,000.00	5/19/10
El Dorado	California State Board of Education	Aspire Port City Academy	09-039-1	$100,000.00	5/25/10
El Dorado	California State Board of Education	Aspire Junior Collegiate Academy	09-040-1	$100,000.00	5/25/10
El Dorado	California State Board of Education	Aspire Titan Academy	09-041-1	$100,000.00	5/25/10
El Dorado	California State Board of Education	Pacific Technology School-Santa Ana	09-042-1	$100,000.00	5/25/10
Fresno	Fresno County Office of Education	Hume Lake Charter School	09-010-1	$140,000.00	9/21/09
Fresno	Fresno County Office of Education	Big Picture High School-Fresno	09-043-1	$100,000.00	5/25/10
Imperial	El Centro Elementary	Ballington Academy for the Arts and Sciences	09-020-1	$250,000.00	3/8/10
Imperial	El Centro Elementary	Imagine School at Imperial Valley	09-081-1	$100,000.00	7/2/10
Los Angeles	California California State	Barack Obama	09-003-1	$250,000.00	9/10/09

	Board of Education	Charter School			
Los Angeles	Los Angeles Unified	Legacy Charter High School	09-004-1	$250,000.00	9/10/09
Los Angeles	Los Angeles Unified	Endeavor College Preparatory Charter School	09-014-1	$200,000.00	12/9/09
Los Angeles	Inglewood Unified	ICEF Inglewood Elementary Charter Academy	09-023-1	$250,000.00	4/12/10
Los Angeles	Inglewood Unified	ICEF Inglewood Middle Charter Academy	09-024-1	$250,000.00	4/12/10
Los Angeles	Los Angeles Unified	Fernando Pullum Performing Arts High School	09-025-1	$250,000.00	4/12/10
Los Angeles	Pasadena Unified	Learning Works Charter School	09-026-1	$250,000.00	4/27/10
Los Angeles	Los Angeles Unified	Animo Locke Technology High	09-031-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	Goethe International Charter	09-032-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	Equitas Academy Charter	09-034-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	Valor Academy Charter	09-033-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	Academia Moderna	09-035-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	New Designs Charter School - Watts	09-036-1	$100,000.00	5/19/10
Los Angeles	Los Angeles Unified	Animo Watts Charter High	09-044-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Marc and Eva Stern Math and Science	09-045-1	$100,000.00	5/25/10
Los Angeles	Lennox	Century Academy for Excellence	09-046-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	College-Ready Academy High Number 7	09-047-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Health Services Academy High School	09-048-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Media Arts and Entertainment High School	09-049-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Environmental Science and Technology High School	09-050-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	College-Ready Middle Academy No. 3	09-051-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Magnolia Science Academy 4	09-052-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Magnolia Science Academy 5	09-053-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Magnolia Science Academy 6	09-054-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	Aspire Huntington Park Charter School	09-055-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	College-Ready Middle Academy Number 4	09-056-1	$100,000.00	5/25/10
Los Angeles	Los Angeles Unified	College-Ready Middle Academy Number 5	09-057-1	$100,000.00	5/25/10
Los Angeles	Los Angeles County Office	Environmental Charter Middle	09-068-1	$100,000.00	6/23/10

	of Education	School			
Los Angeles	Los Angeles Unified	Equitas Academy Charter School	09-069-1	$150,000.00	6/23/10
Los Angeles	Los Angeles Unified	Academia Moderna Charter School	09-070-1	$150,000.00	6/23/10
Los Angeles	Los Angeles Unified	Westside Innovative School House (WISH)	09-071-1	$100,000.00	6/23/10
Los Angeles	Los Angeles Unified	Jack H. Skirball Middle School	09-082-1	$100,000.00	7/2/10
Los Angeles	Los Angeles Unified	Ararat Charter School	09-083-1	$100,000.00	7/2/10
Placer	California California State Board of Education	Western Sierra Collegiate Academy	09-005-1	$250,000.00	9/10/09
Placer	Colfax Elementary	CORE Placer	09-058-1	$100,000.00	5/25/10
Placer	Tahoe-Truckee Unified	Sierra Expeditionary Learning School	09-072-1	$100,000.00	6/23/10
Placer	Loomis Union	John Adams Academy	09-079-1	$100,000.00	6/23/10
Riverside	Lake Elsinore	Sycamore Academy of Science and Cultural Arts	09-016-1	$250,000.00	1/21/10
Riverside	Nuview	Mercury On-Line Academy of Southern California	09-059-1	$100,000.00	5/25/10
Sacramento	Twin Rivers Unified	Higher Learning Academy	09-060-1	$100,000.00	5/25/10
Sacramento	Twin Rivers Unified	California Aerospace Academy	09-061-1	$100,000.00	5/25/10
San Bernardino	Adelanto	Adelanto Charter Academy	09-017-1	$250,000.00	1/21/10
San Bernardino	San Bernardino City	New Vision Middle	09-021-1	$250,000.00	3/8/10
San Bernardino	Hesperia Unified	Mirus Secondary School	09-062-1	$100,000.00	5/25/10
San Bernardino	San Bernardino City	Excel Prep Charter	09-073-1	$100,000.00	6/23/10
San Diego	Chula Vista Elementary	Leonardo da Vinci Health Sciences Charter School	09-018-1	$250,000.00	1/21/10
San Diego	Vista Unified	North County Trade Tech High	09-027-1	$250,000.00	4/27/10
San Diego	Mountain Empire	Mountain Peak Charter School	09-028-1	$250,000.00	4/27/10
San Diego	San Diego	Innovations Academy	09-037-1	$100,000.00	5/19/10
San Diego	Lakeside Union	Xara Garden Charter School	09-063-1	$100,000.00	5/25/10
San Diego	San Diego Unified	Gompers Preparatory Academy	09-064-1	$100,000.00	5/25/10
San Diego	San Diego Unified	Magnolia Science Academy San Diego	09-074-1	$100,000.00	6/23/10
San Diego	San Diego Unified	Pacific American Academy	09-075-1	$100,000.00	6/23/10
San Diego	San Diego Unified	Evangeline Roberts Institute of Learning	09-085-1	$100,000.00	7/2/10
San Joaquin	Stockton Unified	Dr. Lewis Dolphin Stallworth Sr., Charter School	09-011-1	$250,000.00	9/21/09
San Joaquin	Stockton	Aspire Langston	09-065-1	$100,000.00	5/25/10

	Unified	Hughes Academy			
San Joaquin	Stockton Unified	Stockton Collegiate International Secondary School	09-076-1	$100,000.00	6/23/10
San Mateo	California California State Board of Education	Everest Public High School	09-006-1	$250,000.00	9/10/09
San Mateo	Sequoia Union High School	Aspire East Palo Alto Phoenix Academy	09-038-1	$100,000.00	5/19/10
Santa Clara	Santa Clara County Office of Education	South Bay Preparatory	09-002-1	$200,000.00	8/26/09
Santa Clara	Santa Clara County Office of Education	Rocketship Three Elementary School	09-077-1	$100,000.00	6/23/10
Shasta	Cottonwood Unified	Cottonwood Creek Charter School	09-084-1	$100,000.00	7/2/10
Sonoma	California California State Board of Education	River Montessori Elementary Charter	09-007-1	$250,000.00	9/10/09
Stanislaus	California California State Board of Education	Aspire Vanguard College Preparatory Academy	09-066-1	$100,000.00	5/25/10
Ventura	Moorpark Unified	IvyTech Charter School	09-078-1	$100,000.00	6/23/10
Yolo	Davis Joint Unified	Da Vinci Charter Academy	09-012-1	$200,000.00	9/21/09
Yolo	California California State Board of Education	California College, Career and Technical Education Center	09-086-1	$100,000.00	7/2/10

More about Charter School Revolving Loan Fund

Last Reviewed: Monday, January 31, 2011

Exhibit 2

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1		Implementation Year 2
B. All other Applicants provided that Applicant's school has not been awarded Title 1 SIG funding. Applicant's School may be a conversion, classroom-based, or non-classroom based charter school. If Applicant is a non-classroom based charter school, Applicant may be awarded if Applicant's school has not been awarded Title 1 SIG funding and meets one of the following criteria: • Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that has been determined to be persistently lowest-achieving, or eligible for Title I SIG funding. **Or** • Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that is in PI Year 3, 4 or 5, and has an API decile rank of 1 or 2.	$375,000	$175,000	$100,000	$100,000

Maximum P/I Award Amounts
Table 2

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1	Implementation Year 2	
A. May be awarded if the Applicant's school has not been awarded Title 1 SIG funding and meets one of the following criteria: • Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that has been determined to be persistently lowest-achieving, or eligible for Title I SIG funding. **Or** • Applicant's school is located, or a majority of the students served by the Applicant's school reside in an attendance area of a school that is in PI Year 3, 4 or 5, and has an API decile rank of 1 or 2. Applicant's school may be a conversion or classroom-based school.	$575,000	$225,000	$200,000	$150,000

Criteria	Maximum Award	Distribution of Funds		
		Planning Year	Implementation Year 1	Implementation Year 2
		Or if school is open prior to receiving grant funds:		
		Implementation Year 1	Implementation Year 2	
C. All other non-classroom based charter school Applicants that do not meet Criteria B.	$250,000	$75,000	$100,000	$75,000

Exhibit 3

2009 -10 Accountability Progress Reporting (APR)

Local Educational Agency (LEA) List of Schools

2010 Adequate Yearly Progress (AYP) Report

California Department of Education
Assessment, Accountability and Awards Division
1/7/2011

...sburg Unified

LEA Type: Unified
County: Contra Costa
CD Code: 07-61788

AYP LEA Report
APR LEA Summary
API LEA List of Schools
API County List of Schools
AYP County List of Schools

(API = Academic Performance Index)

	Met 2010 Criteria for:					PI Status
	All Components	English-Language Arts	Mathematics	API	Graduation Rate	PI Status
PITTSBURG UNIFIED	No	No	No	Yes	No	Year 3
Elementary Schools						
Foothill Elementary	No	No	No	Yes	N/A	Year 5
Heights Elementary	No	No	No	Yes	N/A	Year 2
Highlands Elementary	No	Yes	No	Yes	N/A	Year 2
Los Medanos Elementary	Yes	Yes	Yes	Yes	N/A	Not in PI
Marina Vista Elementary	Yes	Yes	Yes	Yes	N/A	Not in PI
Parkside Elementary	No	No	No	Yes	N/A	Year 4
Stoneman Elementary	No	No	No	Yes	N/A	Year 3
Willow Cove Elementary	No	No	No	Yes	N/A	Year 2
Middle Schools						
Hillview Junior High	No	No	No	Yes	N/A	Year 5
Rancho Medanos Junior High	No	No	No	Yes	N/A	Year 5
High Schools						
Pittsburg Senior High	No	No	No	Yes	No	Not Title 1
ASAM Schools						
Riverside High (Continuation)	No	Yes	Yes	No	No	Not Title 1

Exhibit 4

2009 -10 Accountability Progress Reporting (APR)

Local Educational Agency (LEA) List of Schools
2009 Base
Academic Performance Index (API) Report

California Department of Education
Assessment, Accountability and Awards Division
12/16/2010

LEA: Pittsburg Unified
LEA Type: Unified
County: Contra Costa
CD Code: 07-61788

2009 Base API Links:
APR LEA Summary
API LEA Report
API County List of Schools
(An LEA is a school district or county office of education.)

	Number of Students Included in the 2009 API	2009 Base API	Ranks: Decile Rank: 2009 Statewide Rank	Ranks: Decile Rank: 2009 Similar Schools Rank	Targets: 2009-10 Growth Target	Targets: 2010 API Target
Pittsburg Unified	6,479	697	B	B	B	B
Elementary Schools						
Foothill Elementary	304	705	2	1	5	710
Heights Elementary	353	768	4	8	5	773
Highlands Elementary	380	682	1	1	6	688
Los Medanos Elementary	393	811	6	10	A	A
Marina Vista Elementary	270	692	1	2	5	697
Parkside Elementary	316	745	3	6	5	750
Stoneman Elementary	398	704	2	2	5	709
Willow Cove Elementary	361	682	1	1	6	688
Middle Schools						
Hillview Junior High	909	726	4	8	5	731
Rancho Medanos Junior High	933	696	3	7	5	701
High Schools						
Pittsburg Senior High	1,588	663	3	5	7	670
ASAM Schools						
Riverside High (Continuation)	56	463 *	B *	B	B	B

Click on column header link to view notes.

"N/A"means a number is not applicable or not available due to missing data.
" * " means this API is calculated for a small school, defined as having between 11 and 99 valid Standardized Testing and Reporting (STAR) Program test scores included in the API. APIs based on small numbers of students are less reliable and therefore should be carefully interpreted. Similar schools ranks are not calculated for small schools.
"A" means the school scored at or above the statewide performance target of 800 in 2009.
"B" means this is either an LEA or an Alternative Schools Accountability Model (ASAM) school. Schools participating in the ASAM do not currently receive growth, target information, or statewide or similar schools rankings on this report in recognition of their markedly different educational missions and populations served. ASAM schools are covered under the Alternative Accountability system as required by *Education Code* Section 52052 and not the API accountability system. However, API information is needed to comply with the federal No Child Left Behind (NCLB) law. Growth, target, and rank information are not applicable to LEAs.
"C" means this is a special education school. Statewide and similar schools ranks and API growth targets are not applicable to special education schools.

Response and Clarification Report to the Contra Costa County Office of Education Findings of Fact Provided to the Petitioners of Synergy School and Synergy Independent Study School February 11th, 2011

Regarding Findings of Fact for Synergy School

1. **In response to the county staff's findings that the "petitioners are demonstrably unlikely to implement the program set forth in the petition because they have presented an unrealistic financial plan." The petitioners respectfully disagree with the staff's findings. Synergy's budget demonstrates a balanced budget consistent with education plan and one that is based on prior experience. The proposed education plan and its budget allows for a level of flexibility that will enable the schools to address the school's financial needs as the school develops.**

   A. **Regarding Synergy School's ability to participate in the CDE's Charter School Revolving Loan Program.**

   The Findings of Fact included a "Funding Results" table which included amounts awarded to charter schools in the year 2009-2010. The Finding of Facts erroneously states that; "in 2009-2010, charter schools that were granted this loan only received $100,000 each." According to the table included in the Findings, other results are clearly revealed. Numerous schools received loans above $100,000 and in fact, some received the full $250,000 amount.

Loan Amount Awarded	Total number of schools receiving loan amount	Percent of total schools listed (86 schools total)
$250,000	20	26.2%
More than $100,000	29	35.7%

The funding award listed in the table only includes the amount loaned in the fiscal year 2009-2010. The table does not include the amounts for which each school actually applied. It cannot be assumed that each school on the list requested $250,000 but received less.

The Charter School Revolving Loan Program awards loans up to a total of $250,000 over the course of the first 5 years of operation for new charter schools. Not all schools request the full amount at once. Some request it as needed in intervals throughout their first 5 years of operation. This funding award list provided does not indicate which schools were asking for secondary awards therefore only eligible for $100,000 or less. The total of the loans borrowed by each school within their first 5 years of operation is not included meaning that some schools on the list may have already borrowed other money within their allowed 5 year time frame. It cannot be assumed that each school listed has not already received portions of the total allowed $250,000.

Moreover, the loan is a need based loan. Schools may not have received more than $100,000 because they may not have needed more than that at the time of application. Information regarding funding need is not available on the CDE's funding list.

The information listed on the "Funding Results" page does not include enough of the necessary information needed to correctly assess the likelihood that Synergy will acquire their full requested loan amount of $250,000 year one.

Ruthann Munsterman, of the California Department of Education, made a direct recommendation to Synergy School regarding amounts that are reasonable to include in an initial planning budget for start-up charters. The initial amounts included in the planning budget reflect that suggested amount of $180,000 year one with an additional funding request of $70,000 in year two. Please note that the petitioners will apply for the full amount, $250,000, year one considering that in the fiscal year 2009-2010, 23.3% of schools received the full amount of $250,000.

The Finding of Facts states that "Synergy has no alternative funding plan…" Synergy School can only include certain funding sources in its initial budget planning phase. Synergy will be eligible to receive and will apply for other funding once approved. For example, Synergy School will qualify for the Public Charter School Facility Grant Program (formally SB740), which will fund up to 75% of annual rental costs. We will also submit an ERate application which can cover up to 90% of costs related to telecommunications, internet access, internal connections and maintenance. In addition, once approved, we will be able to apply for grants, private sources of funding (donations, fundraising, community partnerships, etc), and commercial loans.

Let it be made clear that should some unanticipated circumstance arise that left Synergy School without adequate funding, the petitioners would postpone opening the school for one year.

B. **Regarding the likelihood of receipt of the Public Charter School Grant Program as well as the specific amount of anticipated revenue.**

The Finding of Facts states the unlikelihood of Synergy School's ability to qualify for the higher funding amount for the PCSGP money. This is a misunderstanding and misrepresentation of facts contained in the Public Charter School Grant Program Guide. In the Application for the PCSGP, it is stated that "An increased award amount is available for applications proposing to operate a charter school that has not been awarded Title I SIG funding and has a total enrollment that consists of students residing in the attendance areas of schools eligible for Title 1 SIG funding, or chronically low performing schools" (p. 6). The petitioners believe that Synergy School would qualify for the higher amount award based on PUSD's middle schools and high school being chronically low performing as well as qualified for SIG funding. As stated at the website for the California Department of Education, on March 10, 2010, http://www.cde.ca.gov/ta/ac/pl/, the two Pittsburg Unified Middle Schools, Rancho Medanos Junior High and Hillview Junior High, are both listed as eligible for Title I SIG funds (see attached table). The petitioners have not found evidence that PUSD's eligibility for SIG funding has changed but even if it has changed Synergy would still qualify for higher funding amounts based on the chronically low performance of Pittsburg's middle schools.

The PCSGP guide applies the criteria to the school attendance area, not the district. Clarified in the PCSGP guide is further explanation for the qualification parameters; "The school in question shares at least one grade level as the applicant's school, and the applicant's school is physically located within a reasonable proximity to serve students who reside in the attendance area of the school in question" (p. 15). Synergy Charter School will serve middle and high school students. Therefore, Synergy Charter School's location within the city of Pittsburg, CA, will meet both requirements for qualification of higher grant award since there are only two middle schools in Pittsburg, both are qualified to receive Title I SIG. All middle school residents of Pittsburg will be within reasonable proximity as there are no other schools they can attend within the city limits.

The Findings of Fact mistakenly states that "the lower PCSGP grant amount of $250,000 is only available to non-classroom based charter schools. Therefore, if Petition does not qualify for the $575,000 grant, there is no other grant available." On the funding table included in the Findings of Fact, it is clearly stated that if we do not receive the $575,000 grant, we would receive the $375,000 grant. That information is listed under category B; "All other applicants provided Applicant's school has not been awarded Title 1 SIG funding" (p. 10).

Again, let it be stated that if Synergy does not receive adequate funding to support a stable budget, the petitioners will postpone opening the school one year.

C. **Regarding funding for anticipated special education costs.**

Anticipated revenues for Synergy's special education program were not included in the budget because it would be inappropriate to do so until clarity regarding Synergy's relationship with CCCOE and the Contra Costa County SELPA is established through a future Memorandum of Understanding. As explained to county staff and in anticipation of Synergy's ability to demonstrate the allocation of funds above and beyond anticipated revenues (referred to as encroachment), the petitioners provided an alternate budget reflecting significant increases in "Transfers of Apportionments to LEA" to CCCOE staff and board on February 11th, 2011.

The goal of submitting this alternate budget is twofold. One is to demonstrate that Synergy's budget can withstand substantial expenditures in order to serve its special needs students. Second, is to demonstrate that Synergy's budget, like all other school budgets, is flexible and malleable which enables us to meet the challenges of a variety of unanticipated scenarios.

Information regarding the Special Education Coordinator position is addressed in section 3C.

Let the petitioners also remind the county staff and board that the petitioners are searching for and finding additional revenue sources as the school continues its development. Some of these sources can be included in the budget now while other sources as mentioned above may not be included in the budget until we are eligible to apply and be granted. For example, recently Synergy's Board of Directors approved our school calendar. Because of this, Synergy's Finance Director could more accurately calculate anticipated revenues for our extended day program. The most recent budget (as of 2/13/11) reflects an additional $75,000 for year one and $101,000

for year two and beyond based on these more accurate grade level minutes calculations.

2. **In response to the county staff's findings that "the petitioners are unlikely to successfully implement the program set forth in the petitions because the petition fails to identify where Synergy School will be located."**

Synergy's petitioners have made clear where they intend to located the school which is within the Pittsburg Unified School District boundaries. With respect to a specific location, the petitioners explained that they were currently working with Colliers International on identifying potential sites. The petitioners also listed a proposed site in their *Response and Clarification Report to PUSD Finding of Fact*, being 980 Garcia Ave in Pittsburg.

It is important for the Board to understand that Synergy School can not enter into a facilities lease contract without the approval of the school. Potential sites can only be "considered" until we have authorization and a funding source. Considering the time between the identification of a potential site, approval of the charter and available funding, it would not be within reason nor is it a requirement of the law, as the county staff suggests, that we provide confirmation of an exact location.

The petition also states on page 118 that "facilities will be secured at least two months prior to the first day of school." If, because of some unforeseen circumstance, the petitioners are unable to locate an adequate facility they will postpone the opening of the school for one year.

3. **In response to the county staff's findings that Synergy School "presents an unsound educational program for the pupils to be enrolled in the charter School, in that the program is not likely to be of educational value to some pupils who attend.**

A. **Synergy's plan for English Learners in fact may better serve students compared to what they are currently receiving in their local district in terms of targeted instructional strategies and the time allotted specifically for EL instruction and language acquisition.**

The petitioners respectfully disagree with the staff's opinion that Project Based Learning is not an appropriate instructional program for EL students at the middle and high school levels. It appears that the staff that reviewed this portion of petition has a limited understanding of Project Based Learning and its application. First, the reviewer implies that there is no direct instruction, research proven sheltered instructional strategies or use of materials specifically targeted to support language acquisition. Let it be reiterated from the pages of the petition which clearly states that all teachers will be CLAD certified and demonstrate competency in administering SDAIE lessons with their EL students. In addition, the petitioners are experienced using research based models for sheltered, EL instruction and will ensure that the staff is trained and evaluated in their applications and success in delivering effective lessons as part of each project. The exact model used in conjunction with Project Based Learning, whether it be SDAIE based; Sheltered Instruction Observation

Protocol or SIOP (Echevarria, Vogt, Short); or Cognitive Academic Language Learning Approach or CALLA (Chamot, O'Malley) will be determined as the school continues its development. These models are researched based and employ many of the same teaching strategies; scaffolded instruction, differentiated learning opportunities, accessing personal experience and prior knowledge in learning, cultural identification objectives, just to name a few. Many research based programs like the ones referenced above also provide evaluation tools that help administrators assess the quality of EL instruction.

Furthermore, the petitioners believe that 7+ hours per week of additional small group, targeted instructional time designed exclusively for EL students in addition to full participation their regular core subject area program provides the additional time on task needed to quickly and effectively acquire a new language.

B. In response to the county staff's findings that "the petition provides an adequate plan for the provision of special education services."

A specific detailed plan for how Synergy School provides for its special education students will be determined in a Memorandum of Understanding between the county and the school. Synergy's petition does not provide for minute details of the special education program because they are unknown until an agreement is reached as to which parties will be responsible for specific aspects and how funding sources will be applied. This is consistent with Synergy's budget which contains no incoming special education revenue from our governing LEA. Once it is clear who is responsible for what services and how much funding we will receive, the petitioners will then be able to put a detailed plan in place. We will make decisions about various service provisions and whether or not to hire in house, contract all services with an outside provider like Total Education Solutions (TES) or some combination of both. Synergy's staff will provide upon request a detailed description of how every service needed is provided for in its special education program.

Synergy's petitioners respectfully disagree with the county staff's opinion that a .5 special education coordinator is insufficient to perform the job duties as described in the job description. Synergy expects approximately 10%-13% of its student population to be part of the special education program. This means that year one this employee will manage a caseload of approximately 22-29 students. This position, serving this few students, may include providing resource or other services for which they are qualified. As the caseload grows with increasing enrollment, as needed, some or all of these extended responsibilities will be contracted with other providers. It is the petitioners experience relative to Synergy's job description for this position that a capable half time special education coordinator should be able to handle a caseload of approximately 40-50 students.

The county staff's Findings inaccurately misquote and misstate that Project Based Learning takes the place of a student's IEP. The actual quote is located in an area of the petition that addresses support systems for students with special needs in addition to the accommodations, modifications and services called for in the IEP. It is clearly stated numerous times pages 44-46 that all IEPs will be implemented to the fullest extent of the law and that special education students will receive services by

qualified service providers as called for in their IEP. In reality, Project Based Learning is an instructional model that better supports students with learning differences because embedded in its delivery are many of the research proven best practices for improving learning for those who need alternative methods in order to more effectively learn.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Standardized Testing and Reporting Program: Adoption of California Modified Assessment Performance Standards for English–Language Arts in Grades Ten and Eleven, and Geometry.	☒ Action ☒ Information ☒ Public Hearing

SUMMARY OF THE ISSUE(S)

In August 2011, Educational Testing Service (ETS) conducted a performance standards (levels) setting for the California Modified Assessment (CMA) for English-Language Arts (ELA) in grade ten and eleven and geometry.

The SBE-approved performance standards (levels) (Attachment 1) were distributed for public review at the two public hearings held on October 18, 2011. The public hearings were held via video conference from two county offices of education. A third hearing will be held in conjunction with the November 2011 SBE meeting. A summary of the two video conference hearings (Attachment 2) is provided.

Additional information about the performance standards (levels) setting process and the bookmark method are attached to this item (Attachment 3).

RECOMMENDATION

The CDE recommends that the SBE consider comments received during the regional public hearings and take action to adopt the proposed performance standards (levels) for the CMA for English–language arts (ELA) in grades ten and eleven and geometry.

BRIEF HISTORY OF KEY ISSUES

The U.S. Department of Education (ED) provided non-regulatory guidance to states for the development of their modified assessments. The *No Child Left Behind Modified Academic Achievement Standards, Non-Regulatory Guidance* can be found on the ED Web page at http://www.ed.gov/policy/speced/guid/nclb/twopercent.doc (Outside Source). California used this guidance in the development of the CMA. The CMA is based on modified academic achievement standards which are intended to be challenging for a limited group of students who have a disability that prevents them from

BRIEF HISTORY OF KEY ISSUES (Cont.)

attaining grade-level proficiency. These students must have access to a curriculum based on grade-level content standards and, therefore, must be assessed with a measure that is also based on grade-level content standards. The content standards are not modified, but the achievement expectations are less difficult than the California Standards Tests. This means, for example, that the same content is covered in the test, but with fewer and less difficult questions overall.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its September 2011 meeting, the SBE approved the State Superintendent of Public Instruction recommended performance standards (levels) for the CMA for ELA in grades ten and eleven and geometry to be distributed for public review and comment at two regional public hearings via video conference and at a third hearing to be held in conjunction with the November 2011 SBE meeting.

At the March 2011 meeting, the SBE adopted performance standards (levels) for the CMA for ELA in grade nine; Algebra I, and Life Science in grade ten.

FISCAL ANALYSIS (AS APPROPRIATE)

All costs associated with these activities are included in the current Standardized Testing and Reporting Program contract.

ATTACHMENT(S)

Attachment 1: Proposed Performance Standards (Levels), California Modified Assessment Standard Setting for English–Language Arts in Grades Ten and Eleven and Geometry (2 Pages)

Attachment 2: The Report of the October Regional Public Hearings for the Proposed Performance Standards (Levels) for the California Modified Assessment Standard Setting for English–Language Arts in Grade Ten and Eleven and Geometry (1 Page)

Attachment 3: Performance Standards (Levels) Setting Process and Bookmark Method (2 Pages)

Proposed Performance Standards (Levels)
California Modified Assessment Standard Setting for
English–Language Arts in Grades Ten and Eleven and Geometry

Table 1
CMA for English-Language Arts

To be used in reporting the results of the California Modified Assessment
for English-language arts (grades 10 and 11), spring 2011 administration and thereafter

Grade Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above
10	22.1	**<23**	100	37.4	**23**	77.9	23.5	**31**	40.4	13	**38**	17	4.0	**45**	4.0
	Range 0 – 22			Range 23 – 30			Range 31 – 37			Range 38 – 44			Range 45 – 60		
11	31.4	**<23**	100	37.3	**23**	68.6	20.9	**30**	31.3	8.0	**37**	10.4	2.3	**44**	2.3
	Range 0 – 22			Range 23 – 29			Range 30 – 36			Range 37 – 43			Range 44 – 60		

Percent of students	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2011 administration.
Raw cut score	Minimum raw score needed to achieve this performance standard (level) on the 2011 administration of tests.
Percent at or above	Percent of students statewide who would be at or above this performance standard (level) on the basis of the results of the 2011 administration.

NOTE: The California Modified Assessment for English-language arts (grades 10 and 11) has 60 items.

EXAMPLES OF HOW TO READ THIS CHART: (1) Students with a raw score of less than 23 would be designated as far below basic. (2) Raw scores of at least 45 in grade 10 and 44 in grade 11 would be designated as advanced.

*For future administrations, raw cut scores will be expressed in the corresponding scale scores.

Table 2
CMA for Geometry

To be used in reporting the results of the California Modified Assessment for Geometry, spring 2011 administration and thereafter

Grade Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above	% Students	Raw Cut Score*	% at or above
GEO	23.5	**<23**	100	41.3	**23**	76.5	24.1	**31**	35.2	9.1	**40**	11.1	2.0	**49**	2.0
	Range 0 – 22			Range 23 – 30			Range 31 – 39			Range 40 – 48			Range 49 – 60		

Percent of students	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2011 administration.
Raw cut score	Minimum raw score needed to achieve this performance standard (level) on the 2011 administration of tests.
Percent at or above	Percent of students statewide who would be at or above this performance standard (level) on the basis of the results of the 2011 administration.

NOTE: The California Modified Assessment for Geometry has 60 items.

EXAMPLES OF HOW TO READ THIS CHART: (1) Students with a raw score of less than 23 would be designated as far below basic. (2) Raw scores of at least 49 would be designated as advanced.

*For future administrations, raw cut scores will be expressed in the corresponding scale scores.

The Report of the October Regional Public Hearings for the Proposed Performance Standards (Levels) for the California Modified Assessment Standard Setting for English–Language Arts in Grade Ten and Eleven and Geometry

On October 18, 2011, State Board of Education (SBE) and California Department of Education staff conducted regional public hearings via video conference at the Santa Clara County Office of Education and the San Diego County Office of Education. The announcement for the California Modified Assessment (CMA) regional public hearings can be found on the SBE Public Notices Web page at http://www.cde.ca.gov/be/pn/pn/starpublichearings.asp.

The public hearings were opened by Patricia de Cos, Deputy Executive Director, SBE, at the times specified in the hearing announcement. After a brief explanation of the hearing process, Ms. de Cos opened the hearings to public comment.

No individuals from the public attended the public hearings at the Santa Clara and San Diego County Offices of Education.

Performance Standards (Levels) Setting Process and Bookmark Method

The standards setting panel, comprised of educators and stakeholders throughout the state, was convened to recommend cut scores for the CMA based on the blueprints and the State Board of Education (SBE) approved policy level definitions. The policy level definitions can be found on the California Department of Education (CDE) Web site as part of the March 2011 SBE Agenda Item number ten at http://www.cde.ca.gov/be/ag/ag/yr11/documents/mar11item10.doc

The standards setting panel was composed of nearly 100 general and special education educators with experience with the California content standards. The panel members represented all regions of the state and the diverse student population that make up CMA-eligible test takers, including English learners.

One of the most widely used approaches to standard setting in large scale assessments is the Bookmark Method. The Bookmark Method is an item mapping procedure in which panelists consider content covered by items in a specially constructed book where items are ordered from easiest to hardest based on operational performance data from the spring 2011 administration. Panelists enter markers (or bookmarks) indicating their judgment on the placement of cut scores. These judgments were guided by the SBE-adopted policy definitions to help the development of the performance levels. In California, the Bookmark Method has been used in standard setting for:

- CMA for ELA in grades three through eleven
- CMA for mathematics in grades three through seven
- CMA for science in grades five and eight
- CMA for life science in grade ten
- CMA for Algebra I
- CMA for Geometry
- Standards-based Tests in Spanish (STS) for reading/language arts in grades two through seven
- STS for mathematics in grades two through seven
- California Standards Tests (CSTs) for science in grades five and eight
- CST for life science in grade ten
- CST for earth science
- CST for chemistry
- CST for physics
- CST for biology

Performance Standards (Levels) Setting Process and Bookmark Method (Cont.)

- CST for integrated/coordinated science 1–4
- CST for history-social science
- CST for world history
- CST for United States history
- California High School Exit Examination
- California English Language Development Test

This method requires the standards setting process to be repeated in three rounds whereby panelists independently examine test items and place bookmarks at the points at which they consider students to have demonstrated sufficient knowledge and skills to be minimally competent at each performance level. The proposed cut score for below basic was set statistically after the standard setting to ensure that the lowest performance level was not set at a level students would likely achieve by chance.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Recommendation for Adoption of the Exit Plan Regarding the State Trustee in Alisal Union Elementary School District.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Alisal Union Elementary School District (AUESD) currently employs a State Trustee with "stay and rescind" authority over local governing board and superintendent decisions. Upon State Board of Education (SBE) adoption of criteria and substantial evidence of local educational agency (LEA) progress toward meeting the criteria, AUESD will have local governing board and superintendent authority fully restored.

RECOMMENDATION

It is recommended that the SBE approve the State Trustee's recommendation to move toward full local governing authority for AUESD on or before June 30, 2012, and authorize both the SBE President and Executive Director to work with SBE staff, California Department of Education staff, and the State Trustee to move towards that Exit Plan.

BRIEF HISTORY OF KEY ISSUES

As outlined below, the SBE has taken action since November 2009 under its authority in California *Education Code* Section 52055.57(c) and Public Law 107-110 of the Elementary and Secondary Education Act of 1965, authorized in January 2002 at Section 1116(c)10) (C)(v), to appoint a trustee to administer the affairs of the LEA in place of the superintendent and school board.

Local governance issues were identified as a key factor impeding teaching and learning in AUESD. Carmella S. Franco was assigned as State Trustee to AUESD in May 2010. Since that time, AUESD has made substantial governance improvements. Submitted reports and testimony to the SBE document progress toward remedying the issues identified in AUESD's Memorandum of Understanding (MOU) between the SBE and the State Trustee.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its September 2011 meeting, the SBE reviewed academic achievement trend data, discussed written recommendations for change of governance authority, and heard testimony from the State Trustee in AUESD, local governing board members, and members of the AUESD school community.

The SBE took action to approve the AUESD State Trustee's recommendations to:

- Move from an Option B to Option A governance model (trustee with authority to stay or rescind governing board actions) effective September 21, 2011.
- Authorize payment to the members of the AUESD Board of Trustees' for participation in professional development retroactive to May 1, 2011.
- Authorize that the AUESD local governing board receive stipend and health benefits in accordance with AUESD's bylaws and policies upon the effective date of the Option A governance model.
- Authorize the SBE President and Executive Director to work with the SBE and CDE staff and the AUESD's State Trustee to conduct an analysis of work that must be completed before restoring full governance authority back to the AUESD local governing board and its superintendent, including timelines.
- Bring an AUESD exit plan for consideration by the SBE at its November 2011 meeting.

Attachment 1 is the October 10, 2011, letter from State Trustee Carmella Franco to SBE President Michael Kirst transmitting a recommended AUESD exit plan. The letter includes the recommended timeline for final implementation strategies for AUESD to move from governance Option A to full governance.

FISCAL ANALYSIS (AS APPROPRIATE)

Costs associated with payment of each Trustee are borne by the LEA.

ATTACHMENT(S)

Attachment 1: October 10, 2011, Letter from State Trustee Carmella Franco to SBE President Michael Kirst Transmitting a Recommended Alisal Union Elementary School District Exit Plan (8 Pages total)

October 10, 2011 Letter from State Trustee Carmella Franco (Pages 1–3)

Alisal Union Elementary School District Carmella Franco, State Trustee Timeline for Final Implementation Strategies: Option A to Full Governance (Pages 4–8)

OFFICE OF THE STATE TRUSTEE
1205 East Market Street Salinas, CA 93905
(831)753-5700 • FAX (831)753-5709

Board of Trustees
José Castañeda
Lilia Cortez-Garza
Sarah Garcia
Meredith Ibarra
Adella Lujan

Interim Superintendent
John Ramirez, Jr.

Dr. Carmella S. Franco, State Trustee

October 10, 2011

To: Dr. Michael W. Kirst, President
State Board of Education

From: Dr. Carmella S. Franco, State Trustee
Alisal Union Elementary School District

Re: Alisal Exit Plan for Move from Option A to Full Governance

Background

The Alisal Union Elementary School District operated under the Option B governance model, oversight by a State Trustee with full authority to administer the affairs of the LEA, from May 5, 2010 through September 21, 2011. At the State Board of Education (SBE) meeting of September 8, 2011, the SBE approved recommendations from the State Trustee for a change of governance authority from Option B to Option A. As of the date of this memo, the Alisal Board of Trustees has had two Board meetings under Option A authority, with the State Trustee serving in a stay and rescind role. The scope of authority for Option A is as follows.

Option A (Trustee with authority to stay or rescind governing board actions):

The local governing board will generally retain its existing powers and authorities, including its authorities with respect to the district superintendent. The local governing board will exercise its powers and authorities to implement the details of the corrective action plan. During the period of service, the trustee may stay or rescind any action of the local governing board that, in the sole judgment of the trustee, is inconsistent with the corrective action plan or which otherwise may adversely impact the LEA.

An analysis of the elements of an exit plan for recommending a move from Option A to Full Governance has been conducted. (See attached Timeline for Final Implementation Strategies Option A to Full Governance.) A great deal of progress was made during implementation of the Option B to Option A governance model. However, there are a number of critical considerations that remain as the Alisal Board, Interim Superintendent, and I prepare for a return of complete authority.

Various Considerations

Governance

It is important to observe the governance team as it resumes authority under Option A. Many systems were established and are presently in a beginning implementation mode. The continuity of systems and programs is essential to the overall stability of the District. These areas include, but are not limited to, the sustaining and strengthening of the Educational Services Department and its support of the schools, programmatic changes impacting the instruction of all students, and hiring and release practices.

One of the outcomes of Option B was ensuring that politics remained away from the school sites and classrooms. This "pause" in governance allowed instruction to take place without the intrusion of political distractions, of which there were many. The 2011-12 school year needs to reflect that same commitment whereby the best interests of the children supersede those of adults. This will be evidenced by Alisal Board adherence to Board Operating Procedures, in particular Operating Procedure No. 1.

Mathematics, English Language Arts, and Data

During the 2011-12 school year, plans are underway to develop recommendations for a new mathematics textbook adoption. A pilot study is currently in progress. The District is in its second year of implementation of the English Language Arts textbook adoption, with a heavy emphasis on meeting subgroup literacy needs. English Learners receive one of five delivery modes: English Only, Structured English Immersion, K-1 Bilingual Transitional Program (Early Exit), K-3 Bilingual Transitional Program, or K-6 English/Spanish Dual Language Immersion.

Additionally, the District continues with its implementation of data systems at all levels. On-line Access Reporting System (OARS) is a key data strategy for decision making at the classroom level, and the early identification of student needs. Principals and teachers have been trained to utilize OARS to analyze state assessment data to develop intervention groups. This is an important step which will require monitoring of grade level team implementation this year.

Migrant Education Program

In June 2010, the State Trustee turned the Alisal Migrant Education Program over to the Monterey County Office of Education based on a lack of capacity in the district to provide the necessary oversight. There had been four district coordinators in five years, and unexpended monies were due for return to the State. Subsequently, a FCMAT Audit of the Migrant Education Program was called for by the State Trustee, along with the Monterey County Office of Education. The following is an excerpt from the audit report which was presented to the State Trustee and Alisal Board of Trustees on September 14, 2011 (page 5 of the Executive Summary).

Oversight Responsibilities

An analysis of the available student achievement data indicates that district migrant students did not adequately meet state performance targets. Interviews and data indicate that efforts by the migrant staff during the review period of 2005-06 through 2009-10 were fragmented, with insufficient effort to affect migrant student achievement. The number of certificated instructional staff members employed for migrant services was inadequate. The migrant program focused on meeting student needs other than improving academic outcomes. The majority of program funding was dedicated to administrative and classified program staff. Regular instructional school services were not provided as intended and summer/intercession services provided opportunities for very limited numbers of eligible migrant students. Region XVI consistently brought its concerns to the attention of school district administration as early as 2006.

The return of the Migrant Education Program to Alisal is a major goal with pivotal action points during 2011-12. As the State Trustee turned over the program to the Monterey County Office of Education, and as capacity is being built to sustain its return, it is imperative that close oversight exist during this school year to ensure a successful transition.

In summary, it is important that the State Trustee oversee all of the above-mentioned, and that which is included in the attached Timeline for Final Implementation Strategies Option A to Full Governance, in order to make a seamless transition. The beneficiaries of such a move will be the students, staff, parents, and community at-large who deserve stable governance of the school district. It is expected that the District will be fully on track with regard to its focus on improved student achievement by June 2012.

Thank you for your consideration of this plan. I will be in attendance at the November State Board of Education meeting to respond to any questions.

Alisal Union Elementary School District
Carmella Franco, State Trustee
Timeline for Final Implementation Strategies:
Option A to Full Governance

The implementation strategies remaining to be finalized during the tenure of the State Trustee are listed below. In order to accomplish the Goal and Performance Objectives previously submitted to the State Board of Education, these activities require the continued authority and leadership of the State Trustee prior to the recommendation that the District be returned to the full authority of the local governing board. It is expected that the return to full governance would occur no later than June 30, 2012.

Area of Focus	Performance Objectives	Implementation Strategy	Timeline
Improve District Governance	Board Members will work with the State Trustee to identify criteria for the District to move from Option B to Option A oversight. District Board policies will be reviewed, revised and updated, as appropriate, to conform with state laws and other requirements.	Following SBE approval of a move from Option B to Option A governance, the State Trustee will provide oversight in recommending a move for the Board from Option A to full governance. A professional development schedule will be implemented and Board Operating Procedures will be observed by the Board. Other benchmarks include: Board /Interim Superintendent/State Trustee are working together as a team. Board is operating in a cooperative and effective manner. Indicators would include the following: - Actions taken in alignment with the Corrective Action Plan and in the best interests of the District. Minutes are acted on in a timely manner, e.g. meeting-to-meeting or as soon thereafter.	09/01/11 – 06/30/12

Area of Focus	Performance Objectives	Implementation Strategy	Timeline
		Two board members who ran unopposed were automatically re-elected to the Board of Trustees. Training will be provided throughout 2011-12.	08/12/11 – 06/30/12
		Four Board members are scheduled to participate in Masters in CSBA Governance Training. State Trustee will attend December 2011 CSBA Conference with Board and Interim Superintendent.	09/29/11 – 06/30/12 and ongoing
		Leadership and guidance will be provided as the Board makes substantial progress on the revision of remaining Board policies (previously revised and implemented Series 0000 and 9000; and 5000 was approved on 09-14-11). Revision of 6000 Series is underway.	09/01/11 – 06/30/12
Develop District Leadership	Build leadership capacity of senior District management.	Continue daily coaching and mentoring of senior management, including Interim Superintendent and Assistant Superintendents.	09/01/11 – 06/30/12
		Assist Interim Superintendent with hiring process for permanent Human Resources administrator and other key leadership positions.	01/15/12 – 06/30/12
Improve Student Academic Achievement	Improve student performance at all schools through implementation of the revised LEA Plan.	Schools continue to exhibit growth on the California Standards Test and a trend of improvement is established.	09/01/11 and ongoing
		Proceed with improvement plans for multiple schools to exit Program Improvement status.	

Area of Focus	Performance Objectives	Implementation Strategy	Timeline
		Review and advise regarding recommendations for a new mathematics textbook adoption. Prepare for 2012-13 implementation of the program.	09/01/11 – 06/30/12
		Develop and implement data systems at all levels for instructional purposes in the classroom. The District currently is using OARS to analyze student assessment data and to set student achievement goals. During the coming year, data and technology evaluation will include the following. • Student use of online assessment modules • Teacher development of assessments with standards-based question bank • Identification of basic technology needs for school sites and classrooms and development of a plan for their purchase, e.g. laptop computers, LCD projectors, and document cameras for teachers.	09/01/11 – 06/30/12
		Assist District leadership with new School Plans for Student Achievement.	09/01/11 – 01/31/12
		Assist District leadership with roll-out of revised LEA Plan.	09/14/11 – 01/31/12
		Assist District leadership with roll-out of new EL Master Plan.	09/14/11 – 01/31/12

Area of Focus	Performance Objectives	Implementation Strategy	Timeline
Establish an Effective and Consistent Communication Process with All Stakeholders	Current methods of communicating with stakeholders will be reviewed and needed changes made to ensure all have access to pertinent District information.	Continue to assist District leadership with implementation of the District Communication Plan. Assist District leadership in the development and implementation of a Title I Parent Involvement Policy to be included in revised SPSAs.	09/01/11 – 6/30/12 09/14/11– 06/30/12
Develop Evaluation Systems of District Employees	Create effective evaluation documents and protocols for evaluating teachers.	Advise regarding the teacher evaluation process and facilitate work with the teacher association to ensure the process supports the goals for the improvement of student achievement.	09/12/11 – 06/30/12
Negotiate Collective Bargaining Contracts	The district's collective bargaining agreements will be negotiated and ratified.	Meet and confer as often as necessary with the District leadership team (ATA and CSEA) regarding negotiations and ratification of the collective bargaining contracts.	09/01/11 – 06/30/12
Establish an Effective and Compliant Migrant Education Program with District Oversight	District will work with the Monterey County Office of Education staff to develop a District Migrant Education Program Plan which will be effective instructionally, fiscally, and compliant with all federal rules and regulations leading to the return of oversight to the District.	Release of FCMAT Audit for Migrant Education Program Plan. Presentation and Board approval, with State Trustee concurrence, of the Migrant Education Transition Plan. Appointment of district administrator to oversee transition and program following full return by MCOE. Review and approval by Alisal Board, with State Trustee concurrence, of plans for the return of the Migrant Education Program to the District. Implement plans as approved. Return of Migrant Program to District.	09/14/11 10/19/11 – 12/01/11 02/16/12 – 05/31/12 06/30/12

Area of Focus	Performance Objectives	Implementation Strategy	Timeline
Fiscal Responsibility		Ensure that District is operating in a fiscally conservative and responsible manner, e.g. District reserves are built to assist with the elimination of the structural deficit factor. Budgetary reductions and adjustments during 2011-12 support current instructional reform efforts.	09/01/11 an Ongoing

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

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

SUMMARY OF THE ISSUE(S)

This is a standing item on the agenda, which allows the members of the public to address the board on any matter that is not included in this meeting's agenda.

RECOMMENDATION

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

BRIEF HISTORY OF KEY ISSUES

Not applicable.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Not applicable.

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Not applicable.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Appoint Jason Spencer to a Position in Accordance with Article IX, Section 2.1, of the Constitution of the State of California.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The California Constitution establishes that the State Board of Education (SBE), based upon the recommendation of the State Superintendent of Public Instruction (SSPI), appoints four staff positions. This position is exempt from civil service. The general duties assigned to this individual are to be specified by the SSPI, recognizing that specific assignments will be made based upon the workload of the California Department of Education (CDE).

RECOMMENDATION

The CDE recommends that the SBE appoint Jason Spencer to the SSPI in accordance with Article IX, Section 2.1, of the Constitution of the State of California and the provisions of the SBE Policy Number 2: Policy for the Appointment of Constitutional Officers

BRIEF HISTORY OF KEY ISSUES

The CDE has historically recommended and the SBE has approved the recommended appointments. as Chief Policy Advisor. Deborah Kennedy retired August 2011

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the December 15, 2010 meeting, the SBE approved the appointments of Chief Deputy Superintendent Richard Zeiger. At the March 2011 meeting the SBE approved the appointment of Beth Hunkapiller as Director for the Charter Schools Division and Deborah Kennedy as Chief Policy Advisor. Deborah Kennedy retired August 2011

FISCAL ANALYSIS (AS APPROPRIATE)

The funding for this position is annually allocated in the CDE budget.

ATTACHMENT(S)

Attachment 1: State Board of Education Policy Number 2 (4 pages)
Attachment 2: Resume of Jason Spencer (2 page)

California State Board of Education Policy		POLICY # **2**
	SUBJECT *Policy for the Appointment of Constitutional Officers*	DATE **February 1995**

REFERENCES

Article IX, Section 2.1 of the California Constitution states in relevant part:

The State Board of Education, on nomination of Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from State civil service and whose terms of office shall be four years.

HISTORICAL NOTES

This policy succeeds and replaces Policy No. 2 as adopted by the State Board in September 1990.

Section 1. To carry out the provisions of Article IX, Section 2.1 of the California Constitution, the State Board of Education (State Board) shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction to four-year terms in keeping with this policy; such officers shall be exempt from state civil service. It is the further policy of the State Board that in the event of a vacancy in one or more of those positions, the vacancy shall be filled in accordance with this policy. These positions shall be funded by the Department of Education and adequate office space for these officers shall be provided by the Department.

Section 2. Whenever any of the positions established by Article IX, Section 2.1 of the California Constitution is vacant (or is known to become vacant in the foreseeable future), the Superintendent of Public Instruction (or the Superintendent's designee) shall, in a timely manner, nominate and present to the State Board at least one individual who, in the Superintendent of Public Instruction's opinion, is qualified to fill the vacancy.

Section 3. The Superintendent of Public Instruction (or the Superintendent's designee) shall inform the State Board of the general duties envisioned for each individual nominated, recognizing the Superintendent's legal authority to make specific assignments as the workload of the Department of Education demands. The Superintendent (or designee) shall present to the State Board each nominee's qualifications to undertake the general duties envisioned.

Section 4. Unless exempted therefrom by formal action of the State Board, each individual nominated and presented to the State Board in keeping with this policy shall

be available for interview by the State Board or by an appropriate committee of the State Board in keeping with its Bylaws.

Section 5. The Superintendent of Public Instruction (or the Superintendent's designee) shall provide information regarding each nominee to the State Board's Executive Director. The Executive Director shall ensure that the presentation of each nominee is appropriately noticed in the State Board's agenda, as required the by *Bagley-Keene Open Meeting Act,* such that the State Board, if satisfied as to the nominee's qualifications, may take action to appoint the nominee in keeping with this policy.

Section 6. The Superintendent of Public Instruction shall nominate at least one individual to fill each position specified in Article IX, Section 2.1 of the California Constitution, such that none of the positions remains continuously vacant for more than 120 days. The 120-day limitation set forth in this section as it applies to a given position may be extended by formal action of the State Board in unusual circumstances.

Section 7. The State Board after completing its review of the qualifications of a nominee (or set of nominees) for a given position, may appoint that nominee (or one nominee from that set of nominees) or decline to appoint that nominee (or any nominee from that set of nominees). If the State Board declines to appoint the nominee (or any nominee from the set of nominees), it shall direct the Superintendent of Public Instruction within 60 days to present another nominee or set of nominees for the position. The 60-day limitation set forth in this section may be extended by formal action of the State Board in unusual circumstances.

Section 8. (a) The State Board of Education recognizes that the intent of the people in enacting Article IX, Section 2.1 of the California Constitution appears to have been to set the terms of the positions established therein on a basis coterminous with the term of the Superintendent of Public Instruction.

(b) The State Board recognizes the desire of honest, diligent, capable, and dedicated individuals to be held accountable for their job performance, as well as for there personal and professional conduct.

Section 9. (a) Any individual nominated by the Superintendent of Public Instruction in keeping with this policy has the right, prior to appointment, to agree voluntarily to the following employment conditions, which shall have the status of a contract and violation of which, if so determined by the Superintendent and by formal action of the State Board, shall terminate immediately the affected individual's service with no compensation owed or payable to that individual beyond that point, regardless of the time remaining in the individual's term.

(1) Compliance with all laws—federal and state—in the performance of duties.

(2) Compliance with the requirements of all other binding authority in the performance of duties.

(3) Demonstration of fitness to perform the duties of office on a continuing basis.

(4) Except as provided in this paragraph, the four-year term specified in Article IX, Section 2.1 of the California Constitution is coterminous with that of the Superintendent

of Public Instruction and is running continuously whether a position established by that constitutional provision is vacant or occupied. An appointed individual's actual period of service does not extend beyond the then-current term of the Superintendent of Public Instruction by whom the individual has been nominated, regardless of when the appointment is made during the Superintendent's term, and no compensation is owed or payable to the individual except that earned during the individual's actual period of service. An incoming Superintendent of Public Instruction may extend the period of service of an appointee for up to 120 days into that incoming Superintendent's term in order to provide for an orderly transition. The 120-day limitation may be extended by formal action of the State Board. Extension of an appointee's period of service for transitional purposes shall give the individual no right to nomination by the incoming Superintendent, reappointment by the State Board, or compensation beyond that earned for the actual service rendered.

(b) Acceptance of appointment to a position pursuant to Article IX, Section 2.1 of the California Constitution under the statement of employment conditions specified in paragraph (a) of this section is equivalent to, at the time of appointment, submission of a voluntary letter of resignation by the individual appointed, effective on the date the expiration of the current term of the Superintendent of Public Instruction by whom he or she was nominated, or at an earlier time if the State Board makes a determination as specified in paragraph (a) of this section.

(c) No individual is required to agree to a voluntary statement of employment conditions set forth in this section either to be nominated by the Superintendent of Public Instruction or considered by the State Board for appointment. Following evaluation of a nominee's qualifications, the State Board may appoint that individual pursuant to Article IX, Section 2.1 of the California Constitution without condition without condition or restriction if convinced of the wisdom of so doing. However, failure of a nominee voluntarily to agree to the employment conditions as set in paragraph (a) of this section is a factor the State Board may take into consideration when evaluating the nominee.

(d) If a nominee agrees to the employment conditions as set forth in paragraph (a) of this section and is appointed by the State Board, but then retracts that agreement (in whole or in part) or challenges the employment conditions (in whole or in part) in a court of law or before an administrative body other than the State Board that either has or asserts authority to make determinations regarding the conditions, the making of that retraction or the filing of that challenge shall immediately and automatically rescind and invalidate the State Board's action of appointing that individual. The rescission and invalidation of action by operation of this section may be overruled by a subsequent formal action of the State Board.

(e) By formal action of the State Board and agreement of the affected individual and the Superintendent of Public Instruction, the employment conditions set forth in paragraph (a) of this section as they pertain to that individual may be modified after the appointment has been made.

Section 10. (a) Except as permitted by formal action of the State Board, the Superintendent of Public Instruction shall make no recommendations to the Governor for appointment of deputy or associate superintendents of public instruction pursuant to

Education Code section 33143 at a time when any of the positions established by Article IX, Section 2.1 of the California Constitution is vacant.

(b) The occurrence of a vacancy among the positions established by Article IX, Section 2.1 of the California Constitution shall not affect the status of any individual who has already been recommended to or appointed by the Governor pursuant to Education Code section 33143.

Section 11. This policy succeeds and replaces Policy No. 2 as adopted by the State Board in September 1990.

JASON SPENCER

PROFESSIONAL EXPERIENCE

Office of State Superintendent Tom Torlakson – Legislative Representative
February 2011 – Present

- Track and analyze state legislation regarding Charter Schools, Education Finance, School Management and Schools Choice issues and provide advice to the State Superintendent regarding bill positions and policy objectives
- Represent SSPI as Liaison with State Board of Education and Governor's Office
- Support SSPI Transition Advisory Team and advance statewide policy implementation of the Whole Child approach to education in California.

Vasconcellos Legacy Project - Executive Director
March 2008 – January 2011

- Chief Executive Officer responsible for Board and daily operations, fundraising and program development.
- Managed funding proposals and grant writing, donor outreach, marketing, stakeholder and media outreach efforts.
- Consulted with education policy experts and management of policy analysis, as well as submission of white papers and policy recommendations to legislative committees and education stakeholders.
- Supervised professional development of program management and administrative staff.

Office of Senator Tom Torlakson - Senate Fellow/Legislative Aide
August 2005 – January 2008

- Researched and analyzed a broad cross-section of K-12 and higher education legislation and staffing introduced bills on teacher preparation, Career Technical Education, and education technology, among others topics.
- Advised the Senator on developing K-12 and higher education policy proposals and issues including; core curriculum, accountability and assessment, teacher recruitment, professional development and retention, education technology and student support services.
- Coordinated stakeholder and participant outreach for the California Select Committee on Schools and Community.

Associated Students, Inc., Sonoma State University - President & CEO
May 2003 – June 2005

- Elected Student Body President and Chief Executive Officer responsible for management of $1.2 million 501(c)3 corporation, as well as development and implementation of corporation policy, strategic planning for the organization and leadership/professional development for staff and student Board members
- Supervised professional staff overseeing campus programming, recreation, and a childcare facility.

- Served on University Budget Committee, Campus Engineering and Strategic Planning Taskforce.

Outback Steakhouse - Walnut Creek, CA - Kitchen Manager
May 1995 - March 1999

- Managed schedule and supervised kitchen staff of 30 full and part-time employees.
- Responsible for ordering, receiving and preparing food as well as sundry supplies for the restaurant.
- Reported monthly labor and food cost numbers within acceptable ranges while ensuring quality.

EDUCATION

Masters of Public Administration, *Dean's Merit Scholar* **July 2008**
University of Southern California,

Bachelor of Arts Political Science, *with Distinction* **July 2005**

Bachelor of Arts Sociology, *Media and Social Change emphasis* **July 2008**
Sonoma State University

AWARDS, HONORS, & ACTIVITIES

- Big Brothers Big Sisters, Volunteer – 2009 to 2011
- Advisory Board, New Leaders Council, San Francisco and Sacramento Chapters – 2008 to Present
- California Senate Fellow – 2005-06
- Chair, Legislative Affairs Committee, California State Student Association 2004-05
- Panetta Institute – Completed Education in Leadership for Public Policy Course – July 2004
- Vice Chair, University Affairs Committee, California State Student Association 2003-04

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Revision to the 2008–12 California State Plan for Career Technical Education (State Plan) to allow for the establishment of a Reserve Fund for use by the Community College.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Section 112(a)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Perkins Act) authorizes the California State Board of Education (SBE) to set aside up to 10 percent of the Perkins Act, Title I Basic Grant funds to establish a Reserve Fund from funds that would otherwise be distributed by formula to local educational agencies. It is the request of the Board of Governors (BOG) of the California Community Colleges, by virtue of their Board Agenda Item 2.1, passed at the BOG May 2011 meeting, that the SBE permit the California Community Colleges Chancellor's Office (CCCCO) to establish a 10 percent Reserve Fund from funds allocated by formula to the CCCCO for local assistance. Upon approval by the SBE, a revision to the 2008–12 California State Plan for Career Technical Education (State Plan) will be submitted to the U.S. Department of Education.

RECOMMENDATION

The California Department of Education (CDE) recommends that the SBE adopt a modification to the 2008–12 California State Plan for Career Technical Education to permit the CCCCO to utilize the 10 percent reserve option for funds allocated for local assistance to the community colleges as allowed by the Perkins Act.

BRIEF HISTORY OF KEY ISSUES

Section 112(c) of the Perkins Act authorizes an eligible agency to use the Reserve Funds to award grants to eligible recipients or eligible institutions for career technical education activities described in Section 135 of the Perkins Act. Per the Perkins Act, eligible recipients must meet one of three criteria in order to be eligible to receive a grant from the Reserve Fund:

(1) rural areas;
(2) areas with high percentages of career and technical education students; or
(3) areas with high numbers of career and technical education students.

BRIEF HISTORY OF KEY ISSUES (Cont.)

The CCCCO has ascertained that all districts in the system meet at least one of these criteria.

Using the Reserve Fund, the CCCCO will apply an allocation system for funding community college districts to support activities which support student access, retention, success, and employment. The CCCCO will name this program Career Technical Education Transitions, in that it will focus on student transitions between secondary and postsecondary education, students' successful movement through their community college career technical education program, and students' ultimate transition into the working world. Although no funds distributed by formula to the CDE will be used, it is anticipated that these activities will benefit both secondary students through outreach and articulation, and the performance of the state in meeting annual performance targets set forth by the Perkins Act.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Plan was approved by the SBE on March 12, 2008. At that time, the State Plan (p. 195) noted that the state will not exercise the reserve funds option in the 2008–09 program year and noted that the state will revise the 2008–12 State Plan if it chooses to exercise the option in subsequent years.

FISCAL ANALYSIS (AS APPROPRIATE)

The proposed modification has no fiscal impact to the funds which are reserved for the CDE.

ATTACHMENT(S)

None

CALIFORNIA STATE BOARD OF EDUCATION

November 2011 AGENDA

SUBJECT	
The Administrator Training Program, formerly Assembly Bill 430 (Chapter 364, Statutes of 2005): Approval of Applications for Funding from Local Educational Agencies.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Since the enactment of California *Education Code* (*EC*) sections 44510 through 44517 in January 2006, the State Board of Education (SBE) has annually approved funding for local educational agencies (LEAs) to participate in the Administrator Training Program (ATP).

Historically, all LEAs that apply for funding have been approved, unless: (1) a participant defined as a principal or vice-principal has previously received funding for the program, or (2) the LEA has submitted an incomplete application.

The California Department of Education (CDE) recommends that the SBE take the action to approve funding for LEAs that have submitted applications under the ATP.

RECOMMENDATION

The CDE recommends that the SBE approve funding for LEAs in Attachment 1 that have submitted applications under the ATP.

BRIEF HISTORY OF KEY ISSUES

LEAs apply for the ATP through the online application system, via the Management System for Administrator Training (MSfAT). As part of the application process, the LEA completes an online funding application which acts as the LEA's program proposal as referenced in *EC* Section 44512(a).

In addition, the application includes several assurances, including that the LEA will give priority to those school site administrators working at low performing schools, defined as schools in the bottom half of all schools based on the Academic Performance Index

BRIEF HISTORY OF KEY ISSUES (Cont.)

rankings established pursuant to subdivision (a) of *EC* Section 52056 and hard-to-staff schools, defined as a school in which teachers holding emergency permits or credential waivers make up 20 percent or more of the teaching staff, the program will be completed within two years, and the LEA will use only SBE-approved training providers. The application also includes the names and number of principals and vice principals to be trained. The application is reviewed to ensure that the program proposal includes the areas specified in *EC* Section 44511(a)(1) to (6).

Following SBE approval, each LEA will receive notification from the CDE that the initial application has been approved. A grant award will then be issued to the LEA which must be signed and returned within 10 days.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since the enactment of *EC* sections 44510 through 44517 in January 2006, the SBE has annually approved funding for LEAs to participate in the ATP.

The grant funding application opportunity letter signed by the SSPI is sent to all county and district superintendents and charter school administrators. There is a report to the legislature that was approved by the SBE on May 7, 2008. In the report there are written evaluations as well as informal comments from the LEAs indicating a positive response about the program. There will be another report due in 2012–13 to the legislature at which time the program is due to sunset.

The number of LEAs that applied for funding under the ATP is 191. There are 81 unified school districts, 62 elementary school districts, 18 high school districts, 18 charter schools, and 12 county offices of education.

Historically, all LEAs that apply for funding have been approved, unless: (1) a participant defined as a principal or vice-principal has previously received funding for the program, or (2) the LEA has submitted an incomplete application.

FISCAL ANALYSIS (AS APPROPRIATE)

LEAs receive a payment of $1,500 per participant once the participant's name is entered into the MSfAT and the Grant Award Notification has been signed and returned to the CDE. A second payment of $1,500 is dispersed once all the training hours (160) are recorded into the MSfAT and the required online survey is completed.

Historically, adequate funding has been available to all LEAs that have applied. In addition, the system, using a personal identifier, allows for each participant to receive funding one time throughout his/her career.

ATTACHMENT(S)

Attachment 1: Administrator Training Program, Local Educational Agencies Recommended for State Board of Education Approval, November 2011 (5 Pages)

Attachment 2: Administrator Training Program, Program Summary, November 2011 (1 Page)

ADMINISTRATOR TRAINING PROGRAM
Local Educational Agencies Recommended for State Board of Education Approval
November 2011

Local Educational Agencies	Total Number of Site Administrators	Total Amount of Federal Funding Requested
ABC Unified	1	$ 3,000
Academy for Academic Excellence	4	$ 12,000
Ackerman Elementary	1	$ 3,000
Amador County Office of Education	3	$ 9,000
Anaheim City Elementary	3	$ 9,000
Antelope Valley Union High	6	$ 18,000
Apple Valley Unified	3	$ 9,000
Banning Unified	1	$ 3,000
Barstow Unified	2	$ 6,000
Bellflower Unified	1	$ 3,000
Berkeley Unified	12	$ 36,000
Bonita Unified	2	$ 6,000
Cajon Valley Union Elementary	2	$ 6,000
Calaveras County Office of Education	1	$ 3,000
California Aerospace Academy	1	$ 3,000
Cardiff Elementary	1	$ 3,000
Cascade Union Elementary	2	$ 6,000
Castaic Union Elementary	2	$ 6,000
Central Unified	4	$ 12,000
Ceres Unified	7	$ 21,000
Charter Oak Unified	1	$ 3,000
Chowchilla Elementary	1	$ 3,000
Coachella Valley Unified	5	$ 15,000
Coast Unified	1	$ 3,000
College Elementary	1	$ 3,000
Colton Joint Unified	1	$ 3,000
Columbia Elementary	1	$ 3,000
Community Collaborative Charter	1	$ 3,000
Community Outreach Academy	1	$ 3,000
Compton Unified	5	$ 15,000
Connecting Waters Charter	1	$ 3,000
Corning Union Elementary	1	$ 3,000
Cupertino Union School	3	$ 9,000
Del Mar Union Elementary	3	$ 9,000
Delano Joint Union High	1	$ 3,000
Delano Union Elementary	4	$ 12,000
Desert Sands Unified	10	$ 30,000
Dinuba Unified	2	$ 6,000
Discovery Charter Preparatory School	1	$ 3,000
Dixon Unified	2	$ 6,000

Local Educational Agencies	Total Number of Site Administrators	Total Amount of Federal Funding Requested
East Whittier City Elementary	5	$ 15,000
El Centro Elementary	1	$ 3,000
El Dorado Union High	3	$ 9,000
El Monte City Elementary	5	$ 15,000
El Rancho Unified	1	$ 3,000
El Segundo Unified	1	$ 3,000
Elk Grove Unified	8	$ 24,000
Enterprise Elementary	1	$ 3,000
Environmental Charter High	1	$ 3,000
Environmental Charter Middle	1	$ 3,000
Escondido Union Elementary	4	$ 12,000
Escondido Union High	1	$ 3,000
Evergreen Elementary	1	$ 3,000
Fairfield-Suisun Unified	4	$ 12,000
Family Partnership Home Study Charter School	1	$ 3,000
Folsom-Cordova Unified	5	$ 15,000
Fontana Unified	7	$ 21,000
Fountain Valley Elementary	2	$ 6,000
Fowler Unified	1	$ 3,000
Fresno Unified	47	$ 141,000
Glendale Unified	2	$ 6,000
Goleta Union Elementary	3	$ 9,000
Grossmont Union High	2	$ 6,000
Healdsburg Unified	1	$ 3,000
Health Sciences High & Middle College	4	$ 12,000
Hemet Unified	2	$ 6,000
Hesperia Unified	7	$ 21,000
Higher Learning Academy	2	$ 6,000
Hope Elementary	1	$ 3,000
Hueneme Elementary	2	$ 6,000
Iftin Charter	1	$ 3,000
Irvine Unified	1	$ 3,000
Jamul-Dulzura Union Elementary	2	$ 6,000
Jefferson Elementary	1	$ 3,000
Jefferson Union High	4	$ 12,000
Johnstonville Elementary	1	$ 3,000
Kern Union High	8	$ 24,000
Keyes Union Elementary	1	$ 3,000
Kings Canyon Joint Unified	2	$ 6,000
La Mesa-Spring Valley Elementary	2	$ 6,000
Lake Elsinore Unified	4	$ 12,000
Lakeside Union	1	$ 3,000
Lakeside Union Elementary	1	$ 3,000
Lancaster Elementary	2	$ 6,000
Lassen Union High	1	$ 3,000
Lindsay Unified	4	$ 12,000
Little Lake City Elementary	2	$ 6,000

Local Educational Agencies	Total Number of Site Administrators	Total Amount of Federal Funding Requested
Lodi Unified	3	$ 9,000
Long Valley Charter	2	$ 6,000
Los Alamitos Unified	2	$ 6,000
Los Angeles County Office of Education	2	$ 6,000
Lucia Mar Unified	3	$ 9,000
Madera County Office of Education	1	$ 3,000
Manteca Unified	1	$ 3,000
Mariposa County Office of Education	8	$ 24,000
Mark Twain Union Elementary	1	$ 3,000
Marysville Joint Unified	2	$ 6,000
McCloud Union Elementary	1	$ 3,000
McFarland Unified	2	$ 6,000
Meadows Union Elementary	1	$ 3,000
Merced County Office of Education	2	$ 6,000
Modoc Joint Unified	1	$ 3,000
Mono County Office of Education	1	$ 3,000
Montebello Unified	2	$ 6,000
Moorpark Unified	1	$ 3,000
Moreland Elementary	2	$ 6,000
Moreno Valley Unified	2	$ 6,000
Morongo Unified	1	$ 3,000
Mountain Peak Charter	2	$ 6,000
Mountain View Elementary	1	$ 3,000
Mountain View-Los Altos Union High	1	$ 3,000
Natomas Unified	2	$ 6,000
Newcastle Elementary	2	$ 6,000
Newhall Elementary	2	$ 6,000
North County Joint Union Elementary	2	$ 6,000
Norton Space and Aeronautics Academy	3	$ 9,000
Norwalk-La Mirada Unified	1	$ 3,000
Oak Grove Elementary	4	$ 12,000
Oakdale Joint Unified	1	$ 3,000
Oakland Charter Academy	4	$ 12,000
Ocean View Elementary	1	$ 3,000
Ojai Unified	2	$ 6,000
Orange County Department of Education	2	$ 6,000
Orange Unified	5	$ 15,000
Orcutt Union Elementary	1	$ 3,000
Orland Joint Unified	2	$ 6,000
Oxnard Elementary	1	$ 3,000
Oxnard Union High	3	$ 9,000
Pacific Grove Unified	1	$ 3,000
Palmdale Elementary	4	$ 12,000
Palo Verde Unified	1	$ 3,000
Panama-Buena Vista Union	1	$ 3,000
Pasadena Unified	4	$ 12,000
Paso Robles Joint Unified	3	$ 9,000

Local Educational Agencies	Total Number of Site Administrators	Total Amount of Federal Funding Requested
Patterson Joint Unified	2	$ 6,000
Petaluma City Elementary	2	$ 6,000
Petaluma Joint Union High	1	$ 3,000
Porterville Unified	2	$ 6,000
Ramona City Unified	1	$ 3,000
Redwood City Elementary	6	$ 18,000
Rialto Unified	6	$ 18,000
Ridgecrest Charter	2	$ 6,000
Riverdale Joint Unified	1	$ 3,000
Rocklin Unified	1	$ 3,000
Roseland Elementary	3	$ 9,000
Roseville Joint Union High	2	$ 6,000
Sacto Academic & Vocational Academy	2	$ 6,000
Saddleback Valley Unified	3	$ 9,000
Salida Union Elementary	1	$ 3,000
San Bernardino City Unified	9	$ 27,000
San Diego Unified	9	$ 27,000
San Dieguito Union High	2	$ 6,000
San Francisco Unified	26	$ 78,000
San Jose Unified	8	$ 24,000
San Lucas Union Elementary	1	$ 3,000
San Luis Obispo County Office of Education	2	$ 6,000
San Marcos Unified	3	$ 9,000
Santa Barbara High	1	$ 3,000
Santa Clara Unified	5	$ 15,000
Santa Maria-Bonita Elementary	3	$ 9,000
Santa Paula Union High	2	$ 6,000
Saugus Union Elementary	3	$ 9,000
Sequoia Union High	2	$ 6,000
Shasta County Office of Education	1	$ 3,000
Sierra Sands Unified	1	$ 3,000
Simi Valley Unified	4	$ 12,000
South Bay Union Elementary	2	$ 6,000
Susanville Elementary	2	$ 6,000
Sweetwater Union High	12	$ 36,000
Sylvan Union Elementary	2	$ 6,000
Taft City Elementary	1	$ 3,000
Temple City Unified	1	$ 3,000
Trona Joint Unified	1	$ 3,000
Tulare City Elementary	3	$ 9,000
Turlock Unified	3	$ 9,000
Twin Rivers Unified	4	$ 12,000
Vallejo City Unified	1	$ 3,000
Valley Center-Pauma Unified	1	$ 3,000
Ventura County Office of Education	1	$ 3,000
Ventura Unified	3	$ 9,000
Victor Elementary	3	$ 9,000

Local Educational Agencies	Total Number of Site Administrators	Total Amount of Federal Funding Requested
Visalia Unified	1	$ 3,000
Vista Unified	2	$ 6,000
Westminster Elementary	1	$ 3,000
Westside Union Elementary	1	$ 3,000
William S. Hart Union High	6	$ 18,000
Windsor Unified	1	$ 3,000
Wiseburn Elementary	4	$ 12,000
Woodland Joint Unified	4	$ 12,000
Yuba City Unified	2	$ 6,000
Yuba County Office of Education	1	$ 3,000

ADMINISTRATOR TRAINING PROGRAM
Program Summary
November 2011

CURRENT REQUEST SUMMARY

Applications received in July 2011	
Total number of local educational agencies (LEAs) recommended for November approval	191
Total number of administrators	546

Total State Funds Requested	
546 LEA participants (546 x $3,000)	**$1,638,000**

SUMMARY TO DATE

Total number of participating LEAs	
March 2009 (fiscal year 2008–09)	365
March 2010 (fiscal year 2009–10)	110
March 2011 (fiscal year 2010–11)	110
November 2011 (fiscal year 2011-12)	191

Total number of administrators participating in program	
March 2009 (fiscal year 2008–09)	1,625
March 2010 (fiscal year 2009–10)	351
March 2011 (fiscal year 2010–11)	351
November 2011 (fiscal year 2011-12)	546

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Approval of 2011–12 Consolidated Applications	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Each local educational agency (LEA) must submit a complete and accurate Consolidated Application (ConApp) each fiscal year in order for the California Department of Education (CDE) to send funding to LEAs for any or all of the categorical funds contained in the ConApp for which they are eligible. The ConApp is the annual fiscal companion to the LEA Plan. The State Board of Education (SBE) is asked to annually approve the ConApps for more than 1,535 school districts, county offices of education, and direct-funded charter schools.

RECOMMENDATION

The CDE recommends that the SBE approve the 2011–12 Consolidated Applications (ConApps) submitted by LEAs in Attachments 1 and 2.

BRIEF HISTORY OF KEY ISSUES

Each year, the CDE, in compliance with *California Code of Regulations, Title 5*, Section 3920, recommends that the SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs. Prior to receiving funding, the LEA must also have a SBE-approved LEA Plan that satisfies the SBE's and CDE's criteria for utilizing federal and state categorical funds.

Approximately $2.9 billion of state and federal funding is distributed annually through the ConApp process. The 2011–12 ConApp consists of six federal programs and only one state-funded program. The state funding source is Economic Impact Aid (which is used for State Compensatory Education and/or English learners). The federal funding sources include:

- Title I, Part A Basic Grant (Low Income);
- Title I, Part D (Delinquent);
- Title II, Part A (Teacher Quality);
- Title III, Part A (Immigrant);
- Title III, Part A (Limited English Proficient Students); and
- Title VI, Part B (Rural, Low-Income).

The CDE provides the SBE with two levels of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, and has no compliance issues or is making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. Conditional approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, but has one or more noncompliant issues that is/are unresolved for over 365 days. Conditional approval by the SBE provides authority to the LEA to spend its categorical funds under the condition that it will resolve or make significant progress toward resolving noncompliant issues. In extreme cases, conditional approval may include the withholding of funds.

Attachment 1 identifies the LEAs that have no outstanding noncompliant issues or are making satisfactory progress toward resolving one or two noncompliant issues that is/are unresolved for less than 365 days. The CDE recommends regular approval of the 2011–12 ConApp for these 51 LEAs. Attachment 1 also includes ConApp entitlement figures from school year 2010–11 because the figures for 2011–12 have not yet been determined. Fiscal data are absent if an LEA is new or is applying for direct funding for the first time.

Attachment 2 identifies the LEA that has noncompliant issues and has been noncompliant for more than 365 days The CDE recommends conditional approval of the 2011–12 ConApp for this LEA. Attachment 2 also includes ConApp entitlement figures from school year 2010–11 because the figures for 2011–12 have not yet been determined.

Attachment 3 lists the program issue(s) for which each LEA was found to be noncompliant during a Federal Program Monitoring visit.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

To date, the SBE has approved 2011–2012 ConApps for 1,516 LEAs. Attachments 1 and 2 represent the second set of 2011–12 ConApps presented to the SBE for approval.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE provides resources to track the SBE approval status of the ConApps for more than 1,535 LEAs. The cost to track the noncompliant status of LEAs related to programs within the ConApp is covered through a cost pool of federal funds and Economic Impact Aid funds. CDE staff communicates with LEA staff on an ongoing basis to determine the

evidence needed to resolve issues, reviews the evidence provided by LEA staff, and maintains a tracking system to document the resolution process.

ATTACHMENT(S)

Attachment 1:	Consolidated Applications (ConApp) List (2011–12) - Regular Approvals (3 Pages)
Attachment 2:	Consolidated Applications (ConApp) List (2011–12) - Conditional Approvals (1 Page)
Attachment 3:	List of LEAs with Conditional Approval with One or More Noncompliant Issue(s) for More Than 365 Days (1 Page)

Consolidated Applications (ConApp) List (2011–12) – Regular Approvals

The following local educational agencies (LEAs) have submitted a correct and complete ConApp, Part I, and have no compliance issues or are making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. The California Department of Education recommends regular approval of these applications.

CD Code	School Code	Local Educational Agency Name	Total 2010–11 ConApp Entitlement	Total Entitlement Per Student	Total 2010–11 Title I Entitlement	2010–11 Entitlement Per Free and Reduced Lunch Student	2010–11 Percent At or Above Proficiency - Language Arts	2010–11 Percent At or Above Proficiency - Math
4970920	0108811	Abraxis Charter	$0	$0	$0	$0	0	0
3166779	0000000	Alta-Dutch Flat Union Elementary	$38,861	$344	$20,944	$694	54.3	53.2
1964733	0124883	Animo Charter High School #1	$0	$0	$0	$0	0	0
5672546	0120634	Architecture, Construction & Engineering Charter	$0	$0	$0	$0	0	0
3575259	0000000	Aromas/San Juan Unified	$499,587	$393	$215,616	$703	40.1	37.5
1964881	0113464	Aveson Global Leadership Academy	$2,673	$11	$0	$34	56.7	34.3
1964881	0113472	Aveson School of Leaders	$2,356	$7	$0	$87	59.9	55.7
3667611	0000000	Barstow Unified	$3,228,741	$523	$1,762,464	$746	48.2	52.0
2710272	0124297	Bay View Academy	$0	$0	$0	$0	0	0
3767983	0000000	Borrego Springs Unified	$220,757	$444	$74,468	$513	38.3	38.1
1964733	0112508	Bright Star Secondary Charter Academy	$66,667	$275	$62,572	$330	74.4	81.4
1062042	0000000	Burrel Union Elementary	$111,789	$964	$63,016	$1,075	28.6	34.3
3166795	0119214	CORE Placer Charter	$0	$0	$0	$0	53.8	45.6
5872728	0000000	Camptonville Elementary	$49,056	$1,001	$29,164	$1,326	51.6	64.5
3667876	0114405	Casa Ramona Academy for Technology, Community and Education	$198,305	$426	$165,679	$560	22.1	38.0
1910199	0124925	Celerity Sirius Charter	$0	$0	$0	$0	0	0
3768213	0121582	College Preparatory Middle	$0	$0	$0	$0	0	0
3667686	0000000	Colton Joint Unified	$11,087,871	$473	$5,655,306	$633	42.4	44.7
0161259	0114454	Conservatory of Vocal/Instrumental Arts	$64,822	$283	$60,449	$405	64.7	65.4
3675044	3631132	Crosswalk: Hesperia Experiential Learning Pathways	$0	$0	$0	$0	0	0
4310439	0111880	Discovery Charter	$0	$0	$0	$0	83.9	80.0
1964733	0124933	Early College Academy for Leaders	$0	$0	$0	$0	0	0

CD Code	School Code	Local Educational Agency Name	Total 2010–11 ConApp Entitlement	Total Entitlement Per Student	Total 2010–11 Title I Entitlement	2010–11 Entitlement Per Free and Reduced Lunch Student	2010–11 Percent At or Above Proficiency - Language Arts	2010–11 Percent At or Above Proficiency - Math
		and Scholars						
3667876	0121343	Excel Prep Charter	$0	$0	$0	$0	0	0
5572413	0112276	Gold Rush Charter	$0	$0	$0	$0	53.9	40.4
0161192	0000000	Hayward Unified	$12,944,409	$626	$5,354,102	$991	40.3	41.4
3166951	3130168	Horizon Charter	$0	$0	$0	$0	58.8	42.7
1563529	0000000	Kern Union High	$16,080,479	$445	$10,262,007	$725	51.1	52.7
3768411	3731304	MAAC Community Charter	$0	$0	$0	$0	15.8	0.0
3876752	0123505	Mission Preparatory	$0	$0	$0	$0	0	0
0161242	0000000	New Haven Unified	$4,161,117	$330	$1,475,846	$759	57.8	56.7
0161259	6117972	North Oakland Community Charter	$10,967	$51	$9,747	$289	79.1	79.1
0161259	3030772	Oakland School for the Arts	$40,357	$68	$36,264	$331	64.9	43.9
0161259	0000000	Oakland Unified	$38,664,502	$980	$21,908,893	$1,411	45.4	52.0
5672520	0000000	Ojai Unified	$878,473	$300	$412,758	$796	64.2	61.5
1062331	0000000	Orange Center	$479,176	$1,409	$279,712	$1,479	34.0	49.1
3166951	0122507	Partnerships for Student-Centered Learning	$0	$0	$0	$0	0	0
3675044	0112441	Pathways to College	$0	$0	$0	$0	38.6	41.7
1162646	0000000	Princeton Joint Unified	$100,884	$439	$44,856	$627	40.5	51.1
2165425	0000000	Reed Union Elementary	$110,512	$83	$64,506	$2,908	91.3	87.9
3310330	0110833	River Springs Charter	$481,455	$102	$441,110	$264	50.1	36.5
3710371	0000000	San Diego County Office of Education	$4,811,440	$1,994	$4,349,969	$2,133	28.3	24.8
3768338	0000000	San Diego Unified	$78,628,648	$678	$43,451,380	$1,026	58.1	59.5
3066670	0000000	Santa Ana Unified	$42,315,802	$784	$18,290,650	$907	40.5	52.2
3768130	3731262	Steele Canyon High	$0	$0	$0	$0	58.8	63.1
1964733	0100669	Stella Middle Charter Academy	$187,717	$367	$162,832	$413	54.1	54.6
3968676	0000000	Stockton Unified	$35,557,212	$997	$18,568,474	$1,196	35.7	39.3
3675044	0107516	Summit Leadership Academy-High Desert	$35,244	$169	$31,546	$280	39.6	24.5
4369666	0124065	Sunrise Middle	$0	$0	$0	$0	0	0
5171449	0000000	Sutter Union High	$96,638	$139	$58,642	$632	61.6	50.9
3375192	6112551	Temecula Valley Charter	$0	$0	$0	$0	81.2	72.1
1076778	0000000	Washington Unified	$0	$0	$0	$0	0	0

- The 2010–11 targets for elementary and middle schools are 67.6 percent for Language Arts and 68.5 percent for Math. The 2010–11 targets for high schools are 66.7 percent for Language Arts and 66.1 percent for Math

Total Number of LEAs in the report: 51
Total ConApp entitlement funds for districts receiving regular approval: $251,156,517

Consolidated Applications (ConApp) List (2011–12) – Conditional Approvals

The following local educational agencies (LEAs) have submitted a correct and complete ConApp, Part I, and are making satisfactory progress toward resolving one or two noncompliant issues that are more than 365 days. The California Department of Education recommends conditional approval of these applications.

CD Code	School Code	Local Educational Agency Name	Total 2010–11 onApp Entitlement	Total Entitlement Per Student	Total 2010–11 Title I Entitlement	2010–11 Entitlement Per Free and Reduced Lunch Student	2010–11 Percent At or Above Proficiency - Language Arts	2010–11 Percent At or Above Proficiency - Math
1964758	0000000	Los Nietos	1166110	564.98	489437	564.98	47.8	54.2

* The 2010–11 targets for elementary and middle schools are 67.6 percent for Language Arts and 68.5 percent for Math. The 2010–11 targets for high schools are 66.7 percent for Language Arts and 66.1 percent for Math.

Total Number of LEAs in the report: 1
Total ConApp entitlement funds for districts receiving regular approval: $1,166,110

List of LEAs with Conditional Approval with One or More Noncompliant Issue(s) for More Than 365 Days

Local Educational Agency Name: Los Nietos Elementary
CD Code: 1964758
Year Reviewed: 2008–09

1) **Program and Code:** Cross Program, III-CP 10
   Related Cross Programs: Compensatory Education, English Learner
   Number of Days Noncompliant as of November 9, 2011: 1097

   Requirement: The LEA must use categorical funds only to supplement, and not supplant general funds.

   Summary of Noncompliant Issue: The district had no documentation on file supporting time accounting, including semi-annual certification, Personnel Activity Reports, etc. A review of purchase orders using Economic Impact Aid funding from Aeolian Elementary School and Los Nietos Middle School need clarification in order to establish that these are allowable expenditures intended to benefit English learners.

   Description of Resolution Status:

   Los Nietos and CDE are making progress toward the resolution of Cross Program item 10. Los Nietos Elementary School District was found noncompliant for item III CP 10, in part because it operated with the understanding that a “School Wide Program” option meant a school could blend its “federal, state and local funding sources” to serve the needs of all of its students.

   Economic Impact Aid-Limited English Proficient funds that are designated for English learners may not be included in this funding model due to their restrictive categorical regulations EC 52168, 54025 (a, b, & c).

   CDE staff continues to work collaboratively with the district to reconcile this matter.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Standardized Testing and Reporting Program: Release of 10 Percent Withheld for 2010–11 Educational Testing Service Contract.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

Per state law, the California Department of Education (CDE) withholds 10 percent from progress payments invoiced for each component task in the Standardized Testing and Reporting (STAR) Program contract with Educational Testing Service (ETS).

The STAR contract establishes the process and criteria by which the CDE is to recommend and the State Board of Education (SBE) approves the annual release of the 10 percent withheld from progress payments.

The STAR contract component tasks are listed in Attachment 1 and the approved contract provisions regarding the annual determination of successful completion of component tasks are outlined in Attachment 2.

RECOMMENDATION

The CDE recommends that the SBE release progress payment withholdings (10 percent) for all contract component tasks for the California Alternate Performance Assessment (CAPA) and the Standards-based Tests in Spanish (STS) and the release of progress payment withholdings (10 percent) for contract Component Tasks 1 through 9, 11, 12, 13, and 14 for the California Standards Tests (CSTs) and the California Modified Assessment (CMA) as part of the 2010–11 STAR Program contract with ETS pending completion of all contract component tasks for the 2011 STAR Program test administration through December 2011.

The CDE recommends that the SBE find that ETS failed to successfully complete contract Component Task 10 for the CST and CMA writing portion of the English–language arts tests as part of the 2011 STAR Program test administration and that the SBE not approve the release of a portion of ETS' progress payment withholdings (10 percent) for grade seven writing for that task for the 2010–11 STAR Program contract. (Note: ETS performed all tasks related to grade four writing at no cost to the state.)

RECOMMENDATION (Cont.)

The CDE recommends releasing a total of $5,414,712.40 from funds withheld during the 2011 test administration. The CDE further recommends not releasing $7,233.70 to the contractor from Component Task 10 for the grade seven CST and CMA writing tests. The amounts per task are listed in Attachment 3.

BRIEF HISTORY OF KEY ISSUES

The contract with ETS specifies the criteria for successful completion of component tasks (see Attachment 1). The CDE found that ETS had failed to fully comply with the criteria for Component Task 10, Delivery and Collection of Test Materials. The criteria for successful completion for Component Task 10 states that “test materials were delivered to and retrieved from districts within the regulatory time and by the statutory limit.” State regulations (*California Code of Regulations*, Title 5, Education, Division 1, Chapter 2, Subchapter 3.75, Section 866) require that the STAR contractor have all multiple-choice testing materials to school districts no fewer than ten working days prior to the first day of testing in the school district and all writing test materials to school districts no fewer than five days before testing.

All 2011 multiple-choice test materials were delivered and collected by the contractor within the required timelines. However, during the separate 2011 administration for the writing portions of the CST and CMA English–language arts tests, an error was made in applying the appropriate approved process for writing test deliveries by ETS’s subcontractor, Pearson Education Measurement. The ETS project manager worked closely with the CDE to resolve the issues as quickly as possible. All writing test materials were delivered to all districts in time for testing; however, the contractor did not meet the "regulatory deadline" of no fewer than five days prior to testing. Approximately 60 school districts did not receive their writing test materials at least five days prior to testing. ETS and Pearson are addressing internal controls to ensure that all delivery processes are applied appropriately for the 2012 and 2013 test administrations.

In July 2010, the SBE approved a contract extension through December 2013 with ETS that included the restoration of the grade four writing component to the ELA CST and CMA tests with no further compensation to ETS as required in the 2010 Annual Budget Act. No costs for the restoration of the grade four writing tests were invoiced, paid, or withheld.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2010 and 2008 the SBE approved the release of the 10 percent of funds withheld from ETS’ progress payments for all contract component tasks for all STAR Program tests.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION (Cont.)

In 2009 and 2007, the SBE found that ETS failed to successfully complete specified contract component tasks and did not release the 10 percent withheld for those tasks as follows:

- 2009: Component Tasks 11, 12, and 13 for the CAPA
- 2007: Component Tasks 3, 9, and 10 for all STAR Program tests

FISCAL ANALYSIS (AS APPROPRIATE)

The funds to be released were withheld during 2010–11 from invoices paid with existing STAR Program contract funding. Any portion of the funds withheld during 2010–11 that are not released will revert back to the state General Fund.

ATTACHMENT(S)

Attachment 1: Completion Criteria (4 Pages)

Attachment 2: Standardized Testing and Reporting Program, Process for Determination of Successful Completion of Component Tasks (1 Page)

Attachment 3: Standardized Testing and Reporting Contract, 2011 Test Administration Component Task Budget (1 Page)

Attachment 3 to Exhibit C
Contract 5417, ETS

Completion Criteria

The criteria by which CDE will recommend and the SBE will determine successful completion of each component task for payment of the final 10 percent is set forth in the following table.

CRITERIA FOR SUCCESSFUL COMPLETION OF COMPONENT TASKS
2007 through 2013 Test Administrations

COMPONENT TASK	CRITERIA	COMPLETION DATE SPECIFIED IN AGREEMENT
3.1 Component Task 1 Comprehensive Plan and Schedule for Project Deliverables and Activities	• CDE received written results of the quality control audit. • Delivered all electronic data files, documentation, and materials developed for the STAR Program to the bidder designated by the SBE in 2013.	• December 31, 2007 and each subsequent year • December 31, 2013
3.2 Component Task 2 Program Support Services	• All materials specified were developed and distributed to local educational agencies (LEAs) within the specified timelines. • The California Technical Assistance Center processed all district orders as specified and responded to district requests for assistance. • CDE received electronic files and other reports as specified.	• July 30, 2007 and each subsequent year • December 31 of each year • December 31 of each year
3.3 Component Task 3 Test Security Measures	• Completed on-site visits of schools before, during, and after testing (for the 2007 through 2009 administrations only. • All test items, test materials, electronic files, and data were developed, used, transferred, delivered, and maintained in a secure manner. • Provided the CDE with summary reports of the results of each security breach investigation.	• October 15, 2007 and each subsequent (for the 2007 through 2009 administrations only). • October 15, 2007 and each subsequent year • Within 10 working days of a security breach being reported

COMPONENT TASK	CRITERIA	COMPLETION DATE SPECIFIED IN AGREEMENT
3.3 Component Task 3 Test Security Measures (cont.)	• Provided the CDE with a complete report of each investigation.	• September 1 of each year
3.4 Component Task 4 Norm-referenced Test	• Norm-referenced test was administered to students in grades 3 and 7 only (for 2007 and 2008 administrations only).	• Within the CST testing window each year for 2007 and 2008 administrations only
3.5 Component Task 5 Electronic Item Bank, Data Management, and Documentation	• Delivered to the CDE all test items in the item bank, including existing items as well those newly developed.	• December 31 of each year
3.6 Component Task 6 Item and Task Development	• Developed for all grades and subjects the number of test items agreed upon under the contract. • The minimum number of items developed were field-tested and have adequate technical characteristics, as defined in the contract, to be used on operational tests. • A review of the scaling and equating processes showed them to meet or exceed industry standards. • The performance level settings generated results for all content areas and performance levels were reported to schools, districts, counties, and the state.	• December 31 of each year • December 31 of each year
3.7 Component Task 7 Test Form, Test Booklet, and Answer Document Construction	• Test forms conformed to industry standards and Universal Design principles. • Answer documents allowed for demographic and identification data required by statute and regulations.	• March 31 of each year • March 31 of each year
3.8 Component Task 8 Pre-Identification and Ordering	• Pre-identification data were processed in a timely manner to LEAs. • All orders were processed and were processed in a timely manner.	• December 31 of each year • December 31 of each year

COMPONENT TASK	CRITERIA	COMPLETION DATE SPECIFIED IN AGREEMENT
3.9 Component Task 9 Test Materials Production and Packaging	• All test materials required for the program were produced on time in quantities sufficient for conducting the annual STAR testing in all districts, with no more than 0.5 percent printing or collating errors reported. • The CDE received copies of all tests materials.	• September 30, 2007 and each subsequent year • February 15 of each year
3.10 Component Task 10 Delivery and Collection of Test Materials	• Test materials were delivered to and retrieved from districts within the regulatory time and by the statutory limit.	• September 30, 2007 and each subsequent year
3.11 Component Task 11 Test Processing, Scoring, and Analysis	• ☐All tests were correctly processed and scored within timelines specified in this scope of work. • ☐Data analysis was completed as specified. • Mark Discrimination Report delivered to CDE (for 2007 and 2008 administrations only • Returned materials reports were delivered to the CDE. • Demographic edit reports were delivered to the CDE.	• August 31, 2007 and each subsequent year • August 31, 2007 and each subsequent year • August 31, 2007 and each subsequent year (for 2007 and 2008 administrations only). • September 30, 2007 and each subsequent year • Biweekly June through September of each year
3.12 Component Task 12 Reporting Test Results to LEAs	• Accurate and complete reports of test results as required in statute were provided to all LEAs.	• No later than August 8 of each year or within five weeks of receipt of processable answer documents or completion of requirements in annual scoring specifications

COMPONENT TASK	CRITERIA	COMPLETION DATE SPECIFIED IN AGREEMENT
3.13 Component Task 13 Reporting Test Results to CDE	• Accurate state-level reports of test results were provided to the CDE. • Complete and accurate Internet files were posted within statutory timelines, including results for all students and all subgroups.	• Preliminary complete files by August 8 of each year • Final files by November 8 of each year
3.14 Component Task 14	• Annual Technical Report was received by the CDE. • Data files to use for apportionment purposes were received by the CDE.	• December 31 of each year • September 1 of each year

Standardized Testing and Reporting Program
Process for Determination of Successful Completion of Component Tasks

California *Education Code* Section 60643 requires:

- The CDE to withhold no less than 10 percent of the amount budgeted for each separate and distinct component task provided for in the STAR Program contract pending final completion of all component tasks.

- The STAR contract to establish the process and criteria by which the successful completion of each component task will be recommended by the CDE and approved by the SBE.

The approved STAR contract is the result of a collaborative process involving SBE staff, the SBE testing liaisons, the CDE, and ETS. It includes the following contract provisions regarding the annual determination of successful completion of component tasks:

- On or before the annual November SBE meeting, the CDE shall present to the SBE for its consideration a recommendation regarding the performance of ETS for the SBE's initial determination as to whether ETS has substantially complied with the terms and conditions of the agreement with the CDE.

- The criteria by which the CDE will recommend SBE adoption to determine successful completion of each component task for payment of the final 10 percent are set forth in Attachment 1.

- Once the SBE has determined that ETS has successfully completed a component task, the 10 percent withheld from invoices for the component task for the prior fiscal year may be released by the CDE.

- In the event that the SBE determines that ETS has not substantially complied with the terms and conditions of the agreement with the CDE, the SBE shall, within ten days of its determination, notify ETS and the CDE, in writing, of which component tasks the SBE has determined that ETS allegedly has failed to substantially perform; and a description of the failure shall be included. ETS shall submit an invoice for all tasks that are not set forth in the notice, and the invoice shall be paid within 30 days of receipt. ETS shall have ten days from receipt of the notice to respond in writing, and the response shall be promptly circulated to the CDE and each member of the SBE.

- At its next scheduled meeting, the SBE shall offer the CDE and ETS an opportunity to make any final oral presentation to the SBE regarding the alleged failures. At the same meeting, the SBE shall decide which component tasks, if any, ETS has failed to complete. ETS shall invoice the CDE for the remaining amount due to ETS, and the invoice shall be paid within 30 days of receipt.

Standardized Testing and Reporting Contract
2011 Test Administration Component Task Budget

The CDE recommends releasing a total of $5,414,712.40 from funds withheld during the 2011 test administration.

The CDE further recommends not releasing $7,233.70 to the contractor from Component Task 10 for the grade seven CST and CMA writing tests. The grade seven CST and CMA writing tests are 2 of 93 individual STAR tests (approximately 2 percent) delivered and collected by the STAR contractor for the 2011 test administration.

Component Task	Total 2011 Administration Budget	Amount Paid/ To Be Paid from Progress Payments*	10 Percent Withhold Pending Release	Recommend Release	Recommend Non-Release
1 Comprehensive Plan	$929,629	$836,666.10	$92,962.90	$92,962.90	
2 Program Support	$3,705,408	$3,334,867.20	$370,540.80	$370,540.80	
3 Test Security Measures (eliminated in 2009)	$0	N/A	N/A	N/A	
4 Norm-referenced Test (eliminated in 2009)	$0	N/A	N/A	N/A	
5 Item Bank/Data Management/Documentation	$440,910	$396,819.00	$44,091.00	$44,091.00	
6 Item and Task Development	$4,724,108	$4,251,697.20	$472,410.80	$472,410.80	
7 Test Form/Test Booklet/Answer Document	$5,648,930	$5,084,037.00	$564,893.00	$564,893.00	
8 Pre-Identification and Ordering	$1,602,109	$1,441,898.10	$160,210.90	$160,210.90	
9 Test Materials Production/Packaging/ Shipping	$8,476,198	$7,628,578.20	$847,619.80	$847,619.80	
10 Delivery and Collection of Test Materials	$3,616,849	$3,255,164.10	$361,684.90	$354,451.20	$7,233.70
Task 10 Breakdown:					
All Tests, Excluding Grade Seven Writing:	*$3,544,512.02*	*$3,190,060.82*	*$354,451.20*	*$354,451.20*	$0
Grade Seven Writing:	*$72,336.98*	*$65,103.28*	*$7,233.70*	*$0*	*$7,233.70*
11 Test Processing, Scoring, and Analysis	$18,671,328	$16,804,195.20	$1,867,132.80	$1,867,132.80	
12 Reporting Results to LEAs	$6,067,368	$5,460,631.20	$606,736.80	$606,736.80	
13 Reporting Results to CDE	$79,469	$71,522.10	$7,946.90	$7,946.90	
14 Technical Report/Other Reports/Analyses	$257,155	$231,439.50	$25,715.50	$25,715.50	
Totals	$54,219,461	$48,797,514.90	$5,421,946.10	$5,414,712.40	$7,233.70

*Pending completion of all contract component tasks for the 2011 test administration through December 2011.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The Elementary and Secondary Education Act (ESEA) provides federal funding that may be available to local educational agencies (LEAs) [defined as districts, county offices of education, and direct-funded charter schools] for a variety of programs. Currently only new direct-funded charter schools submit an LEA Plan as part of the application for ESEA funding. California Department of Education (CDE) program staff review LEA Plans for compliance with the requirements of ESEA before recommending approval to the State Board of Education (SBE).

RECOMMENDATION

The CDE recommends that the SBE approve eight direct-funded charter school LEA Plans listed in Attachment 1.

BRIEF HISTORY OF KEY ISSUES

The federal ESEA Section 1112(e)(2) states that the state educational agency (SEA) shall approve an LEA's Plan if the SEA determines that the LEA's Plan is designed to enable its schools to substantially help children meet the academic standards expected for all children. The approval of an LEA Plan by the local school board and by the SBE is a requirement for receiving federal funding sub-grants for ESEA programs. The LEA Plan includes specific descriptions and assurances as outlined in the provisions included in ESEA.

The purpose of the LEA Plan is to develop an integrated, coordinated set of actions that LEAs will take to ensure that they meet certain programmatic requirements, including student academic services designed to increase student achievement and performance, coordination of services, needs assessments, consultations, school choice, supplemental services, services to homeless students, and others as required.

BRIEF HISTORY OF KEY ISSUES (Cont.)

CDE program staff review LEA Plans for compliance with the requirements of the ESEA including evaluation of goals and activities designed to improve student performance in reading and mathematics; improve programs for English learner students; improve professional development and ensure the provision of highly qualified teachers; ensure that school environments are safe, drug-free, and conducive to learning; and promote efforts regarding graduation rates, dropout prevention, and advanced placement. If an LEA Plan lacks the required information, CDE program staff works with the LEA to ensure the necessary information is included in the LEA Plan before recommending approval.

Following initial CDE review and SBE approval, all LEAs are expected to annually review their Plans and update them as necessary. Any changes to the LEA Plan must be approved by an LEA's local governing board.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since the current LEA Plan process was developed in July 2003 as a requirement of the ESEA, the SBE has approved 1,586 LEA Plans.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to state operations.

ATTACHMENT(S)

Attachment 1: Direct-Funded Charter Schools Recommended for State Board of Education Approval (1 Page)

Attachment 2: Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans (3 Pages)

Direct-Funded Charter Schools Recommended for State Board of Education Approval

Local Educational Agency Name	County-District-School Code	Academic Performance Data
Animo Charter Middle School #3	19-64733-0124016	None available; opened August 2011
Animo Charter Middle School #4	19-64733-0124024	None available; opened August 2011
Animo Charter High School #1	19-64733-0124883	None available; opened September 2011
Animo Inglewood Charter High School	19-64634-1996586	See Attachment 2
Animo Jefferson Charter Middle School	19-64733-0122481	See Attachment 2
Animo Westside Charter Middle School	19-64733-0122499	None available; opened August 2011
Architecture, Construction, and Engineering Charter High School	56-72546-0120634	See Attachment 2
Mission Preparatory School	38-76752-0123552	None available; opened August 2011

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Animo Jefferson Charter Middle School CDS CODE: 19-64733-0122481	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (67.6%)	Met 2011 AYP Criteria?	Percent At or Above Proficient (68.5%)	Met 2011 AYP Criteria?	2010 Base API	2011 Growth API	Met 2010–11 Growth API Targets***
Schoolwide	**No, met 8 of 17**	**24.3**	**No**	**19.2**	**No**		**633**	**No**
African American or Black (not of Hispanic origin)		**	**	**	**			
American Indian or Alaska Native		--	--	--	--			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		25.2	No	20.9	No			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		--	--	--	--			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		24.0	No	19.4	No			
English Learners		18.2	No	19.8	No			
Students with Disabilities		0.0	--	0.0	--			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2011 Growth API” score of 710 OR “2010–11 Growth” of at least one point.

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Animo Inglewood Charter High School CDS CODE: 19-64634-1996586	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (66.7%)	Met 2011 AYP Criteria?	Percent At or Above Proficient (66.1%)	Met 2011 AYP Criteria?	2010 Base API	2011 Growth API	Met 2010–11 Growth API Targets***
Schoolwide	**Yes, met 18 of 18**	**62.0**	**Yes (SH)**	**57.3**	**Yes (SH)**	**758**	**775**	**Yes**
African American or Black (not of Hispanic origin)		50.0	**	42.9	**			
American Indian or Alaska Native		--	--	--	--			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		65.3	Yes (SH)	61.2	Yes (SH)			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		--	--	--	--			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		62.8	Yes (SH)	59.1	Yes (SH)			
English Learners		57.5	Yes (SH)	61.6	Yes (SH)			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2011 Growth API” score of 710 OR “2010–11 Growth” of at least one point.

SH = Passed by safe harbor: The school, LEA, or subgroup met the criteria for safe harbor, which is an alternate method of meeting the Annual Measurable Objective (AMO) if a school, an LEA, or a subgroup shows progress in moving students from scoring at the below proficient level to the proficient level.

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Architecture, Construction, & Engineering Charter High School CDS CODE: 56-72546-0120634	Met All Adequate Yearly Progress (AYP) Criteria	**English-Language Arts**		**Mathematics**		**Academic Performance Index (API)**		
		Percent At or Above Proficient (66.7%)	Met 2011 AYP Criteria?	Percent At or Above Proficient (66.1%)	Met 2011 AYP Criteria?	2010 Base API	2011 Growth API	Met 2010–11 Growth API Targets***
Schoolwide	**No, met 5 of 7**	**59.2**	**No**	**42.3**	**No**	**NA**	**726**	**Yes**
African American or Black (not of Hispanic origin)		**	**	**	**			
American Indian or Alaska Native		--	--	--	--			
Asian		**	**	**	**			
Filipino		**	**	**	**			
Hispanic or Latino		54.5	**	35.2	**			
Native Hawaiian or Pacific Islander		**	**	**	**			
White (not of Hispanic origin)		66.7	**	55.6	**			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		58.3	**	58.3	**			
English Learners		--	--	--	--			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2011 Growth API” score of 710 OR “2010–11 Growth” of at least one point.

CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2011 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions.	☒ Action ☒ Information ☐ Public Hearing

SUMMARY OF THE ISSUE(S)

The State Board of Education (SBE) is responsible for assigning a number to each approved charter petition. The California Department of Education (CDE) staff presents this routine request for assignment of charter numbers as a standard action item.

RECOMMENDATION

The CDE recommends that the SBE assign charter numbers to the charter schools identified on the attached list.

BRIEF HISTORY OF KEY ISSUES

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 1,366 charter schools, including some approved by the SBE after denial by local educational agencies. Separate from that numbering system, 8 all-charter districts which currently serve a total of 18 school sites, have been jointly approved by the State Superintendent of Public Instruction and the SBE.

California *Education Code (EC)* Section 47602 requires the SBE to assign a number to each charter school that has been approved by a local entity in the chronological order in which it was received. This numbering ensures that the state stays within a statutory cap on the total number of charter schools authorized to operate. The statutory cap for fiscal year 2011–12 is 1,550. The statutory cap is not subject to waiver.

The charter schools listed in Attachment 1 were recently approved by local boards of education as noted. Copies of the charter petitions are on file in the Charter Schools Division.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE is responsible for assigning a number to each approved charter petition. CDE staff presents this routine request for assignment of charter numbers as a standard action item.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to the state resulting from the assignment of numbers to recently authorized charter schools.

ATTACHMENT(S)

Attachment 1: Assignment of Numbers for Charter School Petitions (1 Page)

Attachment 2: California *Education Code* Section 47602 (1 Page)

Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1367	Palmdale Aerospace Academy	Los Angeles	Palmdale Elementary School District	Cathy Shepard 39139 Tenth Street, East Palmdale, CA 93550
1368	Kawana Elementary School	Sonoma	Bellevue Union Elementary School District	Jesse Escobedo 2121 Moraga Drive Santa Rosa, CA 95404
1369	Imagine Schools, Riverside County	Riverside	Riverside County Office of Education	Monte Lange 3939 13th Street Riverside, CA 92502
1370	California Virtual Academy at Los Angeles High School	Los Angeles	West Covina Unified School District	Katrina Abston 2360 Shasta Way Simi Valley, CA 93065
1371	California Virtual Academy at Santa Ysabel	San Diego	Spencer Valley Elementary School District	Katrina Abston 2360 Shasta Way Simi Valley, CA 93065

California *Education Code* Section 47602

47602. (a) (1) In the 1998-99 school year, the maximum total number of charter schools authorized to operate in this state shall be 250. In the 1999-2000 school year, and in each successive school year thereafter, an additional 100 charter schools are authorized to operate in this state each successive school year. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter petition that it grants pursuant to subdivision (j) of Section 47605 or Section 47605.8 and to each charter notice it receives pursuant to this part, based on the chronological order in which the notice is received. Each number assigned by the state board on or after January 1, 2003, shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. The State Board of Education shall develop a numbering system for charter schools that identifies each school associated with a charter and that operates within the existing limit on the number of charter schools that can be approved each year. For purposes of this section, sites that share educational programs and serve similar pupil populations may not be counted as separate schools. Sites that do not share a common educational program shall be considered separate schools for purposes of this section. The limits contained in this paragraph may not be waived by the State Board of Education pursuant to Section 33050 or any other provision of law.

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education shall adopt regulations to implement this section.