

# California State Board of EducationFinal Minutes July 10, 2019

## Members Present

* Linda Darling-Hammond, President
* Ilene W. Straus, Vice President
* Sue Burr
* Matt Navo
* Feliza I. Ortiz-Licon
* Kim Pattillo Brownson
* Patricia A. Rucker
* Niki Sandoval
* Ting L. Sun
* Gema Q. Cardenas, Student Member
* Tony Thurmond, State Superintendent of Public Instruction (SSPI), Secretary and Executive Officer

## Principal Staff

* Karen Stapf Walters, Executive Director, State Board of Education (SBE)
* Judy Cias, Chief Counsel, SBE
* Patricia de Cos, Deputy Executive Director, SBE
* David Sapp, Deputy Policy Director and Assistant Legal Counsel, SBE
* Janet Weeks, Director of Communications, SBE
* Carolyn Pfister, Education Administrator I, SBE
* Laila Fahimuddin, Policy Consultant, SBE
* Sara Pietrowski, Policy Consultant, SBE
* Pamela Castleman, Education Programs Consultant, SBE
* Amy Bubbico, Staff Services Manager I, SBE
* Lupita Cortez-Alcalá, Chief Deputy Superintendent, California Department of Education (CDE)
* Stephanie Gregson, Deputy Superintendent, CDE
* Amy Bisson Holloway, Chief Counsel II, CDE
* Khieem Jackson, Deputy Superintendent, CDE
* Stephanie Papas, Education Policy Administrator I, CDE
* Keith Yamanaka, Chief Counsel, CDE

**Please note that the complete proceedings of the July 10, 2019 State Board of Education meeting, including closed-captioning, are available online at:** <http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp>

## California State Board of EducationPublic Session July 10, 2019

**Wednesday – July 10, 2019 – 8:30 a.m. Pacific Time ±**California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

* Call to Order
* Salute to the Flag
* Communications
* Announcements
* Report of the State Superintendent of Public Instruction
* Special Presentations
	+ *Public notice is hereby given that special presentations for informational purposes may take place during this session.*
* Agenda Items
* Continuance

**President Darling-Hammond called the meeting to order at approximately 8:30 a.m.**

*REPORT OUT OF CLOSED SESSION*

President Darling-Hammond announced, in Closed Session the Board discussed and/or took action on the following cases:

* *Kerri K. v. State*
* *Thrive v. SBE*

**Report of the State Superintendent of Public Instruction**

### AGENDA ITEMS DAY 1

#### Item 01

**Subject:** Update on the Implementation of the Integrated Local, State, and Federal Accountability and Continuous Improvement System: Recommended Action Regarding Implementation of a Combined Four- and Five-Year Graduation Rate for the Graduation Rate Indicator and the Application of the Three-by-Five Color Table to the College/Career Indicator, and an Update on the Federal Waiver and Identification of Schools Related to the English Learner Progress Indicator.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve: (1) a combined four- and five-year graduation rate for the Graduation Rate Indicator; and (2) the application of the three-by-five color table to the College/Career Indicator (CCI).

**ACTION:** Member Straus moved the CDE recommendation.

Member Burr seconded the motion.

Request by Member Ortiz-Licon to amend the motion to add direction to CDE to do both of the following related to the graduation rate: (1) bring back information on how the threshold for identification of schools for CSI low graduation rate might be modified in response to the change in the combined graduation rate calculation by the November SBE 2019 meeting, and (2) incorporate data on long-term English learners into the reporting of the 5-year graduation rate for the 2020 California School Dashboard.

Member Straus accepted the amendment.

Member Burr seconded the amendment.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 02

**Subject:** The California Assessment of Student Performance and Progress System and the English Language Proficiency Assessments for California: Update on Assessment Program Activities.

**Type of Action:** Information

**CDE Recommendation:** No specific action is recommended at this time.

**ACTION:** No Action Taken.

#### Item 03

**Subject:** English Language Proficiency Assessments for California: Finding of Emergency and Proposed Emergency Regulations for Amendments to the California Code of Regulations, Title 5, Sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.37, 11518.40, 11518.45, 11518.50, 11518.75, and 11518.77.

**Type of Action:** Action, Information

**Recommendation:** The CDE is recommending that the SBE take the following actions:

* Approve the Finding of Emergency.
* Adopt the proposed amended emergency regulations.
* Direct the CDE to circulate the required Notice of Proposed Emergency Action and then submit the emergency regulations to the Office of Administrative Law (OAL) for approval.
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the OAL during its review of the Finding of Emergency and proposed emergency regulations.

**ACTION:** Member Navo moved to approve the CDE staff recommendation.

Member Sun seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 04

**Subject:** State Seal of Civic Engagement Recommended Criteria: Initial Review and Feedback.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE provide feedback on the State Seal of Civic Engagement (SSCE) recommended criteria.

**ACTION:** No Action Taken.

### WAIVERS ON CONSENT

*(W-01 through W-15, W-17, and W-19)*

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

### WAIVER CONSENT VOTE 1

### (W-01)

Class Size Penalties (Over Limit on Grades 1-3)

#### Item W-01 Specific

**Subject:** Request by **Mountain View Elementary School District** under the authority of California *Education Code* (*EC*) Section 41382, to waive portions of the *EC* Section 41376(a), (c), and (d) relating to class size penalties for grades one through three. Allowable class size average is 30 to one with no class larger than 32 for grades one to three. The district wishes to increase its individual class size average to 33 with the overall average class size of 30 to one.

Waiver Number: 6-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

**ACTION:** Member Sandoval moved to approve the CDE staff recommendation.

Member Navo seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, and Ortiz-Licon.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** Member Rucker

The motion passed with 9 votes.

### WAIVER CONSENT VOTE 2

### (W-02 through W-15, W-17, and W-19)

Charter School Program (Nonclassroom-Based Funding)

#### Item W-02

**Subject:** Request by **El Dorado County Office of Education** to waive portions of *California Code of Regulations*, Title 5, Section 11963.6(c), relating to the submission and action on determination of funding requests regarding nonclassroom-based instruction.
Waiver Number: 3-4-2019
(Recommended for APPROVAL)

Community Day Schools (Commingle Grade Levels)

#### Item W-03

**Subject:** Request by **Santa Ana** **Unified School District** for a waiver of California *Education Code* Section 48916.1(d), and portions of California *Education Code* Section 48660 to permit a community day school to serve students in grade six with students in grades seven through twelve.
Waiver Number: 6-3-2019
(Recommended for APPROVAL)Community Day Schools (Minimum School Day)

#### Item W-04

**Subject:** Request by **Hanford Joint Union High** to waive portions of California *Education Code* Section 48663(a), relating to community day school minimum instructional minutes.

Waiver Number: 31-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

Federal Program Waiver (Carl D. Perkins Voc and Tech Ed Act)

#### Item W-05

**Subject:** Request by **six school 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 Numbers:

Julian Union High School District Fed-3-2019
Los Molinos Unified School District Fed-8-2019

Modoc Joint Unified School District Fed-7-2019

San Lorenzo Valley Unified School District Fed-4-2019

Southern Humboldt Joint Unified School District Fed-6-2019

Summerville Union High School District Fed-5-2019

(Recommended for APPROVAL)

Instructional Time Requirement Audit Penalty (Below 1982-83 Base Minimum Minutes)

#### Item W- 06

**Subject:** Request by **Standard Elementary School District** under the authority of the California *Education Code* Section 46206(a), to waive *EC* Section 46201, the audit penalty for offering insufficient instructional minutes during the 2017–18 school year.

Waiver Number: 8-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

Other Waivers (Employment - Retirement System)

#### Item W-07

**Subject:** Request by **Northern Humboldt Union High School District** to waive California *Education Code* Section 45134(c), to allow the employment of a State Teachers’ Retirement System retiree as a classified school bus driver.

Waiver Number: 4-4-2019

(Recommended for APPROVAL)

Sale or Lease of Surplus Property (Sale of Surplus Property)

#### Item W-08

**Subject:** Request by **Cypress Elementary School District** to waive California *Education Code* sections specific to statutory provisions for the sale or lease of surplus property.

Waiver Number: 18-3-2019

(Recommended for APPROVAL WITH CONDITIONS)

School Construction Bonds (Bond Indebtedness Limit)

#### Item W-09

**Subject:** Request by **three local educational agencies** to waive California *Education Code* (*EC*) sections 15106 and 15270(a) to allow the districts to exceed their bonded indebtedness limits. Total bonded indebtedness may not exceed 2.50 percent of the taxable assessed valuation of property for unified school districts. Depending on the type of bond, a tax rate levy limit of $60 per $100,000 of assessed value for unified school districts may also apply.
Waiver Numbers:

Calexico Unified School District: 33-4-2019
Parlier Unified School District: 15-4-2019
Round Valley Unified School District: 32-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

School Construction Bonds (Bond Indebtedness Limit)

#### Item W-10

**Subject:** Request by **Klamath-Trinity Joint Unified School District** to waive California *Education Code* (*EC*) sections 15106 and 15270(a) to allow the district to exceed its bonded indebtedness limit. Total bonded indebtedness may not exceed 2.50 percent for unified school districts. Depending on the type of bond, a tax rate levy limit of $60 per $100,000 for unified school districts may also apply. (Requesting 3.25 percent)

Waiver Number: 9-2-2019

(Recommended for APPROVAL WITH CONDITIONS)

School District Reorganization (Elimination of Election Requirement)

#### Item W-11

**Subject:** Request by **two local educational agencies** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a districtwide election to establish a by-trustee-area method of election.
Waiver Numbers:

Conejo Valley Unified School District: 8-3-2019

Santa Cruz City Elementary/High School District: 17-3-2019

(Recommended for APPROVAL)

School District Reorganization (Elimination of Election Requirement)

#### Item W-12

**Subject:** Request by **Whitmore Union Elementary School District** to waive California *Education Code* Section 5020 that requires a districtwide election to reduct the number of governing board members from five to three.

Waiver Number: 22-3-2019

(Recommended for APPROVAL)

Special Education Program (Child Specific/ NPA or NPS Certification)

#### Item W-13

**Subject:** Request by **Paso Robles Joint Unified School District** to waive California *Education Code* Section 56366.1(a), the requirement for state certification to allow an uncertified out-of-state nonpublic school located in Missouri to provide services to one student with disabilities.

Waiver Number: 20-3-2019

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Educational Interpreter for Deaf and Hard of Hearing)

#### Item W-14

**Subject:** Requests by **two County Offices of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Chelsea Burch, Kyle Espinoza, Courtney Fair, and Danika Estes to continue to provide services to students until June 30, 2020, under a remediation plan to complete those minimum requirements.

Waiver Numbers:

Santa Barbara County Office of Education 7-3-2019

Shasta County Office of Education 12-3-2019

Shasta County Office of Education 14-3-2019

Shasta County Office of Education 15-3-2019

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Extended School Year (Summer School))

#### Item W-15

Subject: Request by **14 local educational agencies** to waive California Code of Regulations, Title 5, Section 3043(d), which requires a minimum of 20 school days for an extended school year (summer school) for students with disabilities.

Waiver Numbers:

Alpine Union Elementary School District 5-4-2019

Amador County Office of Education 10-4-2019
El Centro Elementary School District 2-3-2019
Gateway Unified School District 12-4-2019
Hanford Elementary School District 1-3-2019
Imperial County Office of Education 4-3-2019
Imperial Unified School District 16-3-2019
Keyes Union School District 17-4-2019
Lake County Office of Education 13-4-2019
Manteca Unified School District 5-3-2019
Mariposa County Office of Education 1-4-2019
San Bernardino County Office of Education 10-3-2019
Shasta County Office of Education 19-3-2019
Westmorland Union Elementary School District 11-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Resource Teacher Caseload)

#### Item W-17

**Subject:** Request by **Simi Valley Unified School District** to waive *Education Code* Section 56362(c), allowing the caseload of resource specialist to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum).

Waiver Number: 2-4-2019

(Recommended for APPROVAL WITH CONDITIONS)

Special Education Program (Algebra 1 Graduation Requirement)

**Item W-19 Subject:** Request by **Manhattan Beach Unified School District** to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2018-19 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for one student with disabilities based on *Education Code* Section 56101, the special education waiver authority.

Waiver Number: 4-5-2019

(Recommended for APPROVAL WITH CONDITIONS)

*WAIVER CONSENT VOTE*

**ACTION:** Member Sun moved to approve the CDE staff recommendation for each waiver request W-02 through W-15, W-17, and W-19.

Member Rucker seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

### WAIVER REQUIRING INDIVIDUAL ACTION(W-16)

Special Education Program (One year notice to change SELPA)

#### Item W-16

**Subject:** Request by the **Natomas Unified School District** to waive California *Education Code* Section 56195.1 (a) regarding size and scope requirements of a special education local plan area.

Waiver Number: 12-1-2019

(Recommended for APPROVAL WITH CONDITIONS)

**ACTION:** Member Sandoval moved to approve the CDE staff recommendation.

Member Navo seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** Member Sun

The motion passed with 9 votes.

### WAIVER REQUIRING INDIVIDUAL ACTION(W-18)

*Waiver Item W-18 was withdrawn by the CDE on July 10, 2019*

~~Special Education Program (Resource Teacher Caseload)~~

**~~Item W-18~~**

**~~Subject:~~** ~~Request by~~ **~~Manteca Unified School District~~** ~~to waive~~ *~~Education Code~~* ~~Section 56362(c), allowing the caseload of resource specialists to exceed the maximum caseload of 28 students by no more than 4 students (32 maximum).~~

~~Waiver Numbers:~~

~~19-4-2019~~

~~20-4-2019~~

~~21-4-2019~~

~~22-4-2019~~

~~23-4-2019~~

~~24-4-2019~~

~~25-4-2019~~

~~26-4-2019~~

~~27-4-2019~~

~~28-4-2019~~

~~29-4-2019~~

~~30-4-2019~~

~~(Recommended for APPROVAL WITH CONDITIONS)~~

[Note: the preceding information about Item W-18 contains strikethroughs which indicate the item has been withdrawn.]

**END OF WAIVERS**

### REGULAR CONSENT ITEMS(Item 05 and Item 07 through Item 13)

#### Item 05

**Subject:** High School Equivalency Tests: Reconsideration of Authorized Test Vendors.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE direct the CDE to: (1) continue annual negotiations with GEDTS and ETS to renew their memoranda of understanding (MOUs) each year until such a time that the CDE recommends the SBE take further action; and (2) discontinue the use of the TASC™ for HSE testing in California, to be effective beginning December 31, 2019, when the term of the current MOU expires.

#### Item 07

**Subject:** English Language Proficiency Assessments for California: Approval of Commencement of the Rulemaking Process for Amendments to the California Code of Regulations, Title 5, Sections 11518, 11518.5, 11518.15, 11518.20, 11518.25, 11518.30, 11518.35, 11518.37, 11518.40, 11518.45, 11518.50, 11518.75, and 11518.77.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE is recommending that the SBE take the following actions:

* Approve the Notice of Proposed Rulemaking (Notice).
* Approve the Initial Statement of Reasons (ISOR).
* Approve the amended regulations.
* Direct the CDE to commence the rulemaking process.
* Authorize the CDE to take any necessary action to respond to any direction or concern expressed by the Office of Administrative Law (OAL) during its review of the Notice, ISOR, and proposed regulations.

#### Item 08

**Subject:** Consideration of Request for Determination of Funding as Required for Nonclassroom-based Charter Schools Pursuant to California Education Code sections 47612.5 and 47634.2, and Associated California Code of Regulations, Title 5.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the determination of funding request at 100 percent for the time period specified for the charter school listed on Attachment 1.

**Advisory Commission on Charter Schools Recommendation**

At the June 2019 meeting, the ACCS voted unanimously to approve the CDE recommendation that the SBE approve the determination of funding request at 100 percent for the time period specified for the charter school listed on Attachment 1.

#### Item 09

**Subject:** Approval of the Charter School Numbers Assigned to Newly Established Charter Schools.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE assign a charter number to the charter schools identified in Attachment 1.

#### Item 10

**Subject:** Comprehensive Literacy State Development Program Grant Application.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE ratify the submission of the Comprehensive Literacy State Development Program grant proposal project.

#### Item 11

**Subject:** Approval of 2018–19 Consolidated Applications.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the 2018–19 ConApps submitted by LEAs in Attachment 1.

#### Item 12

**Subject:** Request by **Compton Unified School District** regarding Education Code sections 17515 through 17526, Joint Public/Private Occupancy Proposal, allowing the Compton Unified School District and Prologis, L.P. to enter into leases and agreements relating to real property and buildings to be used jointly.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the Compton USD’s proposal to enter into a joint occupancy agreement with Prologis, L.P. to develop a logistics warehouse, district warehouse and related administration facility, and workforce internship training program.

#### Item 13

**Subject:** Appointment of Stephanie Gregson and Sarah Neville-Morgan to positions in accordance with Article IX, Section 2.1 of the Constitution of the State of California and the Provisions of the State Board of Education Policy Number 2: Policy for the Appointment of Constitutional Officers.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE appoint Stephanie Gregson and Sarah Neville-Morgan to Branch Deputy Superintendent positions in the Performance, Planning, and Technology Branch, and Teaching and Learning Support Branch, respectively, in accordance with Article IX, Section 2.1 of the Constitution of the State of California and the Provisions of the State Board of Education Policy Number 2: Policy for the Appointment of Constitutional Officers, effective May 31, 2019.

*ACTION ON REGULAR CONSENT ITEMS*

**ACTION:** Member Ortiz-Licon moved to approve the CDE staff recommendation for each item on consent (Item 5 and Item 7 through Item 13).

Member Rucker seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

*END OF REGULAR CONSENT ITEMS*

### REGULAR AGENDA ITEMS Continued

#### Item 06

**Subject:** School Accountability Report Card: Approve the Template for the 2018–19 School Accountability Report Card.

**Type of Action:** Action, Information

**CDE Recommendation:** The CDE recommends that the SBE approve the proposed template for the 2018–19 SARC that will be published during the 2019–20 school year (Attachment 1).

**ACTION:** Member Burr moved to approve the CDE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Navo, Sandoval, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** None

**Recusals:** None

The motion passed with 10 votes.

#### Item 14

**Subject:** STATE BOARD PROJECTS AND PRIORITIES.

Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board 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

**SBE Recommendation:** The SBE staff recommends that the SBE:

1. Approve the Preliminary Report of Actions/Minutes for the May 7, 2019 Study Session and the May 8-9, 2019 meeting. (Attachment 1)

**ACTION:** Member Straus moved to approve the CDE staff recommendation.

Member Rucker seconded the motion.

**Yes votes:** Members Navo, Pattillo Brownson, Sun, Darling-Hammond, Straus, Burr, Cardenas, Ortiz-Licon, and Rucker.

**No votes:** None

**Member Absent:** None

**Abstentions:** Member Sandoval

**Recusals:** None

The motion passed with 9 votes.

#### Item 15

**Subject:** GENERAL PUBLIC COMMENT.

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

**Type of Action:** Information

**ACTION:** No Action Taken.

### ADJOURNMENT OF MEETING

**President Darling-Hammond adjourned the meeting at approximately 2:05 p.m.**