

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

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# California State Board of Education January 2018 Agenda Item #11

## Subject

California High School Proficiency Examination: Adoption of the Amendments to the *California Code of Regulations*, Title 5, Sections 11520, 11524, 11525, and 11526.

## Type of Action

Action, Information

## Summary of the Issue(s)

The California Department of Education (CDE) is responsible for administering the California High School Proficiency Examination (CHSPE) to individuals who are at least sixteen years of age or meet other eligibility requirements. Individuals taking the CHSPE may earn a certificate of proficiency, awarded by the State Board of Education (SBE), which is equivalent to a high school diploma, according to California *Education Code* (*EC*) Section 48412. Assembly Bill (AB) 2656 (O’Donnell), signed by Governor Brown on September 27, 2016, prohibits the CDE from charging fees to administer the CHSPE to a certified foster youth who is under twenty-five years of age. In addition, AB 2656 requires the SBE to adopt emergency regulations to implement the provisions of this new law.

Similar amendments were made to existing regulations regarding homeless youths, and were adopted by the SBE in May 2016, to meet the requirements of Senate Bill (SB) 252 (Leno), which prohibited the charging of fees to certified homeless youths. SB 252 was signed by the Governor on September 30, 2015. The proposed amendments to *California Code of Regulations*, Title 5 (5 *CCR*) sections 11520, 11524, 11525, and 11526 provide continuity between homeless and foster youth requirements. In addition, these proposed amendments allow other certification options in addition to the previously incorporated certification form.

On September 13, 2017, the SBE approved commencement of the standard rulemaking process to make permanent the amendments to *5 CCR* sections 11520, 11524, 11525, and 11526. Part of this process involved a 45-day public comment period. At the conclusion of the comment period, the CDE determined that no changes are required and recommended that the proposed regulations be adopted by the SBE.

## Recommendation

The CDE recommends that the 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.
* Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

## Brief History of Key Issues

Individuals who are at least 16 years of age, or have been enrolled in grade ten for one academic year or longer or are completing their final semester of grade ten are eligible to take the CHSPE to earn a certificate of proficiency, which, by California law, is equivalent to a high school diploma. The CHSPE is administered by the Sacramento County Office of Education under a contract with the CDE.

Individuals who take the CHSPE must register and pay the fee for the administration and scoring of the test. AB 2656 provides the opportunity for a certified foster youth, who is under 25 years of age and meets other eligibility requirements, to take the CHSPE at no cost. *EC* sections 48412(h)(1) and (2) define a foster youth as*:*

* A child who was the subject of a petition filed pursuant to Section 300 of the Welfare and Institutions Code (WIC) and removed from his or her home by the juvenile court pursuant to sections 319 or 361 of the WIC.
* A child who was the subject of a petition filed pursuant to Section 602 of the WIC and removed from his or her home by the juvenile court pursuant to Section 727 of the WIC.

The CDE received no public comments during the 45-day public comment period. The 45-day public comment period began on September 29, 2017, and closed on

November 13, 2017. The CDE recommends that the proposed amendments to the CHSPE regulations be adopted by the SBE.

## Summary of Previous State Board of Education Discussion and Action

On September 13, 2017, the SBE readopted the emergency regulations to prevent any lapse of time between the expiration of the emergency regulations and the effective date of the regulations as required by AB 2656. In a separate item, the SBE also approved commencement of the rulemaking process. These items are available on the SBE September 2017 Agenda Web page at <https://www.cde.ca.gov/be/ag/ag/yr17/agenda201709.asp>.

On May 10, 2017, the SBE adopted emergency regulations as required by AB 2656. This item is available on the SBE May 2017 Agenda Web page at <https://www.cde.ca.gov/be/ag/ag/yr17/agenda201705.asp>.

On September 9, 2016, the SBE adopted regulations that prohibited a fee being charged to certified homeless youths. This item is available on the SBE September 2016 Agenda Web page at <https://www.cde.ca.gov/be/ag/ag/yr16/agenda201609.asp>.

On May 12, 2016, the SBE adopted emergency regulations that prohibited charging a fee to certified homeless youths wishing to take the CHSPE. This item is available on the SBE May 2016 Agenda Web page at <https://www.cde.ca.gov/be/ag/ag/yr16/agenda201605.asp>.

Under a separate item, the SBE approved the commencement of the standard rulemaking process to make permanent amendments to 5 *CCR* sections 11520, 11524, 11525, and 11526. This item is available on the SBE May 2016 Agenda Web page at [https://www.cde.ca.gov/be/ag/ag/yr16/agenda201605.asp](http://www.cde.ca.gov/be/ag/ag/yr16/agenda201605.asp).

## Fiscal Analysis (as appropriate)

An Economic and Fiscal Impact Statement is submitted as Attachment 3.

## Attachment(s)

* Attachment 1: Final Statement of Reasons (1 Page)
* Attachment 2: Proposed Regulations (4 Pages)
* Attachment 3: Economic and Fiscal Impact Statement (STD. 399) (6 Pages)

# Attachment 1: FINAL STATEMENT OF REASONS CHSPE

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days, from September 29, 2017, through November 13, 2017. No individuals provided comments during the 45-day comment period.

A public hearing was held at 9 a.m. on November 13, 2017 at the California Department of Education*.* No individuals attended the public hearing.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF SEPTEMBER 29, 2017 THROUGH NOVEMBER 13, 2017.**

No written comments were received during the 45-day public comment period.

**ALTERNATIVES DETERMINATION**

The State Board of Education has determined that no alternative would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

**LOCAL MANDATE DETERMINATION**

The proposed regulations do not impose any mandate on local agencies or school districts.

10-20-17 [California Department of Education]

# Attachment 2: Proposed Regulations

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

**Title 5. EDUCATION**

**Division 1. California Department of Education**

**Chapter 11. Special Programs**

**Subchapter 8. High School Proficiency Certificates**

**Article 1. Certificate of Proficiency**

**§ 11520. Definitions.**

(a) “Certificate” means a certificate of proficiency awarded by the State Board of Education (SBE) as described in Education Code section 48412(a)(2).

(b) ~~“Homeless Certification Form” means a form provided by the California Department of Education (CDE) that is to be completed by an authorized homeless services provider to verify that a youth is homeless as defined in Education Code section 48412. The Homeless Certification Form (issued 03/2016) is incorporated by reference in California Code of Regulations, title 5, section 11530.~~ “Certification” means documentation from a services provider, or a county or state agency, certifying the examinee is a homeless youth or a foster youth.

(c) “Parent” as used in Education Code section 48410(e), relating to verified parental approval, means the natural parent, or adoptive parent or legal guardian, having legal custody of the pupil.

(d) “Testing accommodations” means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores.

NOTE: Authority cited: Sections 48410 and 48412, Education Code. Reference: Sections 48410 and 48412, Education Code.

**§ 11524. Waiver of Fees.**

(a) The contractor selected to administer the examination shall not collect fees from individuals who are under 25 years of age, meet all other registration requirements, and are ~~verified~~ certified to be a homeless youth by a homeless services provider or a foster youth as defined in Education Code section 48412, except for fees for additional services not related to regular test registration including, but not limited to, registration for a test administration after the regular registration deadline set by the contractor, request to change the testing date after the regular registration deadline set by the contractor, request for a transcript or duplicate certificate, or request to expedite services. The contractor shall not charge fees to individuals who are certified ~~verified~~ to be a homeless youth or a foster youth for any other administrative services without prior approval of the ~~CDE~~ California Department of Education (CDE).

(b) The fee waiver for individuals who are under age 25 and are certified ~~verified~~ to be a homeless youth by a homeless services provider, or a foster youth as defined in Education Code section 48412 shall include only fees for services related to test administration. The fee waiver shall not include fees for services or documents required to verify the need for testing accommodations, test preparation, or other services not related to test administration.

NOTE: Authority cited: Section 48412, Education Code. Reference: Section 48412, Education Code.

**§ 11525. Homeless Certification.**

(a) To be eligible for a fee waiver, at the time of registration for a test administration, a homeless youth must submit all standard required registration materials to the contractor including documentation required for all testing accommodations that the individual may need and an original completed ~~Homeless Certification Form.~~ certification.

(b) ~~Only the Homeless Certification Form~~ The CDE-developed certification form may be used to certify that the registrant is homeless. ~~The Homeless Certification Form~~ Certification must include all of the following information:

(1) The full legal name of the registrant;

(2) The date of birth of the registrant;

(3) The signature of the registrant affirming, under penalty of perjury, a statement that he or she is homeless and under 25 years of age;

(4) The printed name of the homeless services provider;

(5) The title of the homeless services provider;

(6) The business address, phone number, and e-mail address of the homeless services provider;

(7) The signature of the homeless services provider affirming, under penalty of perjury, a statement that he or she is an authorized homeless services provider and that the registrant is homeless as defined in Education Code section 48412;

(8) The date that the ~~Homeless Certification Form~~ certification is completed by the homeless services provider; and

(9) The date the ~~Homeless Certification Form~~ certification expires.

(c) ~~The Homeless Certification Form~~ Certification is valid for a period of one year from the certification date and may be renewed annually until the certified homeless youth reaches 25 years of age. If the certified homeless youth reaches 25 years of age within one year from the certification date, the ~~Homeless Certification Form~~ certification will be valid only until one day before the certified homeless youth reaches 25 years of age.

(d) The homeless services provider or the provider's agency shall retain a copy of all ~~Homeless Certification Forms~~ certification(s) issued to ~~certified~~ certify homeless youth(s) until each certified homeless youth reaches 28 years of age. The homeless services provider or the provider's agency shall make copies of ~~Homeless Certification Forms~~ certification(s) available to the CDE upon request.

(e) The contractor shall retain all original ~~Homeless Certification Forms~~ certification(s) issued to ~~certified~~ certify homeless youth(s) until each homeless youth reaches 28 years of age. The contractor shall make original ~~Homeless Certification Forms~~ certification(s) available to the CDE within 10 business days upon request.

(f) No fees shall be charged to homeless youths seeking certification of their status.

NOTE: Authority cited: Sections 33031 and 48412, Education Code. Reference: Sections 48410 and 48412, Education Code.

**§ 11526. Foster Youth Certification.**

(a) To be eligible for a fee waiver, at the time of registration for a test administration, a foster youth must submit all standard required registration materials to the contractor including documentation required for all testing accommodations that the individual may need and certification of their foster youth status. This certification may be provided by the county or California Department of Social Services.

(b) Eligibility for the fee waiver is valid until the certified foster youth reaches 25 years of age.

(c) The contractor shall retain all original certification(s) issued to foster youth(s) until each foster youth reaches 28 years of age. The contractor shall make original certification documentation available to the CDE within 10 business days upon request.

(d) No fees shall be charged to foster youths seeking certification of their status.

(e) For purposes of this Article, “Foster Youth” means either current or former foster youth as defined by Education Code section 48412(h).

NOTE: Authority cited: Section 48412, Education Code. Reference: Section 48412, Education Code.

07-21-17 [California Department of Education]