

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

tlsb-elsd-mar18item01

# California State Board of EducationMarch 2018 AgendaItem #10

## Subject

California Education for a Global Economy Initiative: Approve Commencement of a Second 15-Day Public Comment Period for Proposed Amendments to Title 5 of the *California Code of Regulations* (*5 CCR*) sections 11300, 11301, 11309, 11310, and 11316, and Adoption of Proposed Sections 11311 and 11312

## Type of Action

Action, Information

## Summary of the Issue(s)

The California Department of Education (CDE) is responsible for the implementation of the California Education for a Global Economy (CA Ed.G.E.) Initiative. The CA Ed.G.E. Initiative amends California *Education Code* (*EC*) sections 300, 305, 306, 310, 320, and 335, and repeals *EC* Section 311. This agenda item requests that the State Board of Education (SBE) approve a second 15-day public comment period for modifications to the proposed amendments to the above-mentioned regulations of *5 CCR*.

In July 2017, the CDE submitted proposed amendments to the SBE to the *5 CCR* sections 11300, 11301, 11309, 11310, and 11316, and proposed new sections 11311 and 11312. These proposed amendments to the regulations were approved by the SBE at its July 2017 meeting and the rulemaking process commenced on July 29, 2017, with a 45-day public comment period. A public hearing was held on September 11, 2017, at the conclusion of the public comment period. The CDE reviewed the comments from the public and submitted revised proposed regulations to the SBE at its November 2017 meeting. The SBE approved both the revisions and a 15-day public comment period, which commenced November 13, 2017, and concluded November 28, 2017. A written comment was submitted outside the public comment period at the November 8, 2017, SBE meeting. During the 15-day public comment period, the CDE received one written comment. Both comments and the CDE’s responses are included in the Summary of Public Comments (Attachment 4).

Upon completion of the 15-day public comment period, the CDE further revised the proposed regulations to provide clarification. The proposed changes are presented in the attached Second 15-Day Notice of Modifications (Attachment 1) and the proposed regulations (Attachment 2).

## Recommendation

The CDE recommends that the SBE takes the following actions:

* Approve the proposed changes to the proposed regulations.
* Direct that the proposed changes be circulated for a second 15-day public comment period in accordance with Administrative Procedure Act.
* If no relevant comments to the proposed changes are received during the

15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval.

* If any relevant comments to the proposed changes are received during the

15-day public comment period, the CDE is directed to place the proposed regulations on the SBE’s May 2018 meeting agenda for action.

* 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

Prior to 1998, California schools could readily provide bilingual programs to meet the needs of English learners. Proposition 227, approved by the voters, established that students were entitled to English language classrooms unless that right was waived. The statute required, among other things, that “all children in California public schools be taught English by being taught in English” (*EC* Section 305). Proposition 227 specified that English learner pupils be educated through a sheltered English immersion process during a temporary transition period not normally to exceed one year. Upon reaching “reasonable fluency,” pupils were to be placed in English language mainstream programs until reclassification as “fluent-English proficient.”

Participation in sheltered English immersion programs could be waived through a process initiated by a written request for an alternative bilingual program from a pupil’s parent or legal guardian.

In 2016, the voters of California overwhelmingly approved Proposition 58, the CA Ed.G.E. Initiative. The CA Ed.G.E. Initiative amends or repeals provisions of Proposition 227, codified in *EC* sections 300, 305, 306, 310, 311, 320, and 335.

The CA Ed.G.E. Initiative acknowledges the benefits and opportunity that multilingual education provides students as a vehicle toward participation in a global economy. This initiative provides opportunities for English learners and native English speakers to participate in a program that leads to proficiency in English and another language.

Three sections (*EC* sections 305, 306, and 310) of the amended statute necessitated regulation. The proposed revised regulations address:

1. The inclusion of parents and community members, while considering the establishment and implementation of language acquisition programs at school districts or county offices of education, during the development of local control and accountability plans.
2. Notification to parents regarding the language acquisition programs available in the school district or county office of education.
3. A process for receiving and responding to parent requests for language acquisition programs provided at a school site.

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

On July 12, 2017, the CDE recommended and the SBE approved the proposed regulations and commencement of the rulemaking process for the CA Ed.G.E. Initiative regulations.

<https://www.cde.ca.gov/be/ag/ag/yr17/documents/jul17item06.doc>

On November 8, 2017, the CDE recommended and the SBE approved the proposed revisions to the regulations and a 15-day public comment period for the revisions.

<https://www.cde.ca.gov/be/ag/ag/yr17/documents/nov17item16rev.doc>

## Fiscal Analysis

To the extent that the Commission on State Mandates determines that any of the requirements in these regulations exceed the requirements of or are not necessary to implement the CA Ed.G.E. Initiative, and constitute a reimbursable state mandate, the state will be required to provide affected local educational agencies Proposition 98 General Fund resources to fund the required activities as noted in the Fiscal Effect on Local Government section of the Economic and Fiscal Impact Statement.

Economic and Fiscal Impact Statement provided as Attachment 5.

## Attachment(s)

**Attachment 1**: 15-Day Notice of Modifications (4 pages)

**Attachment 2**: Proposed Regulations (10 pages)

**Attachment 3**: Addendum to the Final Statement of Reasons (1 page)

**Attachment 4**: Addendum to the Summary of Public Comments (2 pages)

**Attachment 5**: Economic and Fiscal Impact Statement (STD. 399) (5 pages)

**Attachment 5a**: Attachment to the Economic and Fiscal Impact Statement (1 page)



California Department of Education

Executive Office

## Attachment 1:SECOND 15-DAY NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS REGARDING THE CALIFORNIA EDUCATION FOR A GLOBAL ECONOMY (CA Ed.G.E.) INITIATIVE

March 16, 2018

Pursuant to the requirements of Government Code Section 11346.8(c), and *California Code of Regulations*, Title 1, Section 44, the State Board of Education (SBE) is providing notice of changes made to the above-referenced proposed regulation text which was the subject of a regulatory hearing on September 11, 2017.

**After the 15-day comment period (November 13–28, 2017), the following changes were made to the proposed text of the regulations:**

**Proposed Sections 11301(a) and (c)** are amended to replace “as applicable” with “if such a body is required by law.” This modification is necessary to clarify that some districts are not required to establish an English learner parent advisory committee pursuant to California *Education Code* (*EC*) Section 52063.

If you have any comments regarding the proposed changes that are the topic of this second 15-Day Notice, the SBE will accept written comments between March 16, 2018, and March 31, 2018, inclusive. All written comments must be submitted to the Regulations Coordinator via facsimile at 916-319-0155 or e-mail at regcomments@cde.ca.gov or mailed and received at the following address by close of business at 5:00 p.m. on March 31, 2018, and addressed to:

Patricia Alverson, Regulations Coordinator

Legal, Audits and Compliance Branch

Administrative Supports and Regulations Adoption Unit

California Department of Education

1430 N Street, Suite 5319

Sacramento, CA 95814

All written comments received by 5:00 p.m. on March 31, 2018, which pertain to the indicated changes will be reviewed and responded to by California Department of Education (CDE) staff as part of the compilation of the rulemaking file. Written comments received by the CDE staff during the public comment period are subject to viewing under the Public Records Act.

**Please note:** Any written comments are to be restricted to the recent modifications as shown in the enclosed language. The SBE is not required to respond to comments received in response to this Notice on other aspects of the proposed regulations.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

In November 2016, California voters approved Proposition 58, initiated by Senate Bill 1174, Statutes of 2014, Section 5, referred to as the California Education for a Global Economy (CA Ed.G.E.) Initiative. This initiative amends California *EC* sections 300, 305, 306, 310, 320, and 335, and repeals *EC* Section 311, all of which were enacted in 1998 with the voter-approved Proposition 227. The amended statutes in the CA Ed.G.E. Initiative became operative July 1, 2017.

The enactment of the CA Ed.G.E. Initiative affects current sections 11300, 11301, 11309, 11310, and 11316 of Title 5 of the *California Code of Regulations* (*5* *CCR*), which currently implement Proposition 227. The applicable language in each section will be modified or replaced with language implementing *EC* sections 300, 305, 306, and 310, as amended by Proposition 58. Additionally, sections 11311 and 11312 are added to *5 CCR* to address parent requests for language acquisition programs and language programs.

The CA Ed.G.E. Initiative acknowledges the benefits that multilingual education provides students toward participation in a global economy. It provides opportunities for English learners and native speakers of English to participate in a program that leads to proficiency in English and another language, if so desired. The acquisition of English as rapidly and as effectively as possible for English learners continues to be a state priority.

School districts, county offices of education, schools, and parents seek direction regarding the implementation of the CA Ed.G.E. Initiative. These proposed regulations will provide specificity not included in the statute, thus aiding school districts and county offices of education to comply with the provisions of the law. Clear direction is particularly needed to ensure districts and county offices of education engage with parents and the community with respect to the provision of language acquisition programs.

#### *Anticipated Benefits of the Proposed Regulation*

The proposed regulations are intended to assist school districts and county offices of education in complying with the provisions and intent of the CA Ed.G.E. Initiative. Each regulation is designed to guide school districts and county offices of education, or school sites, toward a practice that incorporates parents and stakeholders into the process of establishing language acquisition programs and language programs.

The regulations acknowledge that it takes time, research, resources, and deliberate planning to successfully develop and establish an instructional program that leads students toward proficiency and academic achievement in English and an additional language, if so desired.

#### Determination of Inconsistency/Incompatibility with Existing State Regulations

The CDE reviewed state regulations relating to the CA Ed.G.E. Initiative and has not found regulations that are inconsistent or incompatible with these proposed regulations regarding state or federal law.

### DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

The SBE has made the following initial determinations:

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: To the extent that the Commission on State Mandates determines that any of the requirements in these regulations exceed the requirements of or are not necessary to implement the CA Ed.G.E. Initiative and constitute a reimbursable state mandate, the state will be required to provide affected local educational agencies Proposition 98 General Fund resources to fund the required activities as noted in the Fiscal Effect on Local Government section of the Economic and Fiscal Impact Statement.

Cost or savings to any state agency: None

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with Section 17500) of division 4 of the Government Code: Implementing the requirements of these regulations will likely create costs for local educational agencies. To the extent that the Commission on State Mandates determines that any of the requirements in these regulations exceed the requirements of or are not necessary to implement the CA Ed.G.E. Initiative and constitute a reimbursable state mandate, these regulations could result in annual local costs that would be required to be reimbursed by the State.

Other non-discretionary costs or savings imposed on local educational agencies: None

Costs or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None

Cost impacts on a representative private person or businesses: The SBE is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on housing costs: None

Effect on small businesses: The proposed regulations would not have an effect on any small business because the activities specified in the regulations affect only school districts and county offices of education.

### Results of the Economic Impact Analysis

The SBE concludes that it is unlikely that these proposed regulations will: (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

### CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the SBE, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The SBE invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### CONTACT PERSONS

Inquiries concerning the content of these proposed regulations should be directed to:

Lorrie Kelling, Education Programs Assistant

English Learner Support Division

California Department of Education

1430 N Street, Suite 2204

Sacramento, CA 95814

Telephone: 916-319-0386

E-mail: CA-EDGE@cde.ca.gov

## 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~~.
* The 15-day text proposed to be added is in “**bold underline,**” deleted text is displayed in “**~~bold strikeout~~**”.
* The second 15-day text proposed is added in “double underline”, deleted text is displayed in “double strikeout”.

**Title 5. EDUCATION**

**Division 1. California Department of Education**

**Chapter 11. Special Programs**

**Subchapter 4. Multilingual and English ~~Language~~ Learner Education**

**§ 11300. Definitions.**

~~“School term” as used in Education Code section 330 means each school's semester or equivalent, as determined by the local governing board, which next begins following August 2, 1998. For multitrack or year round schools, a semester or equivalent may begin on different days for each school track.~~

1. “Designated English Language Development” means instruction provided during a **time set aside in the regular school day for ~~protected time during the regular school day, in which there is a~~** focus**ed** **instruction** on the state-adopted English language development (ELD) standards to assist English learners to develop critical English language skills necessary for academic content learning in English.
2. “English learner parent advisory committee,” means the committee established by a school district or county superintendent of schools pursuant to Education Code sections 52063 and 52069, and Title 5 California Code of Regulations section

15495(b).

1. “Integrated English Language Development” means instruction in which the state-adopted ELD standards are used in tandem with the state-adopted academic content standards. Integrated ELD includes specially designed academic instruction in English.
2. “Language acquisition programs” are educational programs designed for English learners to ensure English acquisition as rapidly and effectively as possible, that provide instruction to these pupils on the state-adopted academic content and ELD standards through Integrated and Designated ELD, and that meet the requirements described in section 11309 of this subchapter. **Language acquisition programs may include, but are not limited to, dual language programs, transitional and developmental programs for English learners, and Structured English Immersion, as specified in Education Code section 306, subdivision (c).**
3. “Language programs” are programs that are designed to provide opportunities for pupils to be instructed in languages other than English to a degree sufficient to produce proficiency in those languages, consistent with the provisions of Education Code section 305, subdivision (c).
4. “Local control and accountability plan (LCAP)” means the plan created by a local educational agency (LEA) pursuant to Education Code sections 52060 or 52066, as applicable to the LEA.
5. “Local educational agency (LEA)” means a school district or county office of education.

 **(h) “Multilingual” means proficiency in one or more languages, in addition to English.**

**~~(h)~~(i)** “Parent advisory committee” means a committee established by a school

district or county superintendent of schools pursuant to Education Code sections 52063or 50269.

 **~~(i)~~(j)** ”Parents” means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the a pupil pursuant to Welfare and Institutions Code section 361 or 727, or Education Code section 56028 or 56055, including foster parents who hold rights to make educational decisions.

 ~~(j)~~**(k)** “Stakeholders” means parents, pupils, teachers, administrators, other school personnel, and interested members of the public.

 **~~(k)~~(l)** “State-adopted academic content standards” means the subject matter covered in Education Code sections 18100, 18101, 51210.2, 51222, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13.

 **~~(l)~~(m)** “State-adopted English language development standards” means standards adopted pursuant to Education Code section 60811.

 **~~(m) “Structured English Immersion (SEI)” means a language acquisition program, where nearly all instruction is provided in English, with a curriculum and presentation designed for pupils who are learning English.~~**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 310, 18100, 18101, 51210.2, 51222, 52060, 52063, 52064, 52066, 52067, 52068, 52069, 56028, 56055, 60605, 60605.1, 60605.2, 60605.3, 60605.4, 60605.5, 60605.8, 60605.11, and 60605.13, Education Code; Sections 361 and 727, Welfare and Institutions Code**~~; Sections 11308, 15495(b), and 15496(f), Title 5 California Code of Regulations~~**.

**~~§ 11301.Knowledge and Fluency in English.~~**

 ~~(a) For purposes of “a good working knowledge of English” pursuant to Education Code Section 305 and “reasonable fluency in English” pursuant to Education Code Section 306(c), an English learner shall be transferred from a structured English immersion classroom to an English language mainstream classroom when the pupil has acquired a reasonable level of English proficiency as measured by any of the state-designated assessments approved by the California Department of Education, or any locally developed assessments.~~

 ~~(b) At any time, including during the school year, a parent or guardian may have his or her child moved into an English language mainstream classroom.~~

 ~~(c) An English learner may be re-enrolled in a structured English immersion program not normally intended to exceed one year if the pupil has not achieved a reasonable level of English proficiency as defined in Section 11301(a) unless the parents or guardians of the pupil object to the extended placement.~~

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305 and 306(c), Education Code.

**§ 11301. Community Engagement.**

1. As part of the development of the LCAP and annual updates, an LEA shall inform and receive input from stakeholders, including the English learner parent advisory committee**, if applicable,**if such a body is required by law, and the parent advisory committee, regarding the LEA’s existing language acquisition programs and language programs, and establishing other such programs.
2. An LEA process for informing stakeholders and receiving input may include procedures such as stakeholder surveys, forums, and meetings with school advisory committees, or other groups representing stakeholders.
3. Prior to adoption of an LEA’s LCAP, the school district superintendent or the county superintendent of schools shall include a written response to input received from the LEA’s English learner parent advisory committee**, if applicable,**if such a body is required by law, and parent advisory committee relating to language acquisition programs and language programs with the superintendent’s response as described in Education Code sections 52062 and 52068.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 52060, 52062, 52063, 52066, 52067 and 52068, Education Code.

**~~§ 11309. Parental Exception Waivers.~~**

 ~~(a) In order to facilitate parental choice of program, all parents and guardians must be informed of the placement of their children in a structured English immersion program and must be notified of an opportunity to apply for a parental exception waiver. The notice shall also include a description of the locally-adopted procedures for requesting a parental exception waiver, and any locally-adopted guidelines for evaluating a parental waiver request.~~

 ~~(b) School districts shall establish procedures for granting parental exception waivers as permitted by Education Code sections 310 and 311 which include each of the following components:~~

 ~~(1) Parents and guardians must be provided with a full written description and upon request from a parent or guardian, a spoken description of the structured English immersion program and any alternative courses of study and all educational~~

~~opportunities offered by the school district and available to the pupil. The descriptions of the program choices shall address the educational materials to be used in the different options.~~

 ~~(2) Pursuant to Education Code section 311(c), parents and guardians must be informed that the pupil must be placed for a period of not less than thirty (30) calendar days in an English language classroom and that the school district superintendent must approve the waiver pursuant to guidelines established by the local governing board.~~

 ~~(3) Pursuant to Education Code sections 311(b) and (c), the school principal and educational staff may recommend a waiver to a parent or guardian. Parents and guardians must be informed in writing of any recommendation for an alternative program made by the school principal and educational staff and must be given notice of their right to refuse to accept the recommendation. The notice shall include a full description of the recommended alternative program and the educational materials to be used for the alternative program as well as a description of all other programs available to the pupil. If the parent or guardian elects to request the alternative program recommended by the school principal and educational staff, the parent or guardian must comply with the requirements of Education Code section 310 and all procedures and requirements otherwise applicable to a parental exception waiver.~~

 ~~(4) Parental exception waivers shall be granted unless the school principal and educational staff have determined that an alternative program offered at the school would not be better suited for the overall educational development of the pupil.~~

 ~~(c) All parental exception waivers shall be acted upon by the school within twenty (20) instructional days of submission to the school principal. However, parental waiver requests under Education Code section 311(c) shall not be acted upon during the thirty (30)-day placement in an English language classroom. These waivers must be acted upon either no later than ten (10) calendar days after the expiration of that thirty (30)-day English language classroom placement or within twenty (20) instructional days of submission of the parental waiver to the school principal, whichever is later.~~

 ~~(d) In cases where a parental exception waiver pursuant to Education Code sections 311(b) and (c) is denied, the parents and guardians must be informed in writing of the reason(s) for denial and advised that they may appeal the decision to the local board of education if such an appeal is authorized by the local board of education, or to the court.~~

 ~~(e) For waivers pursuant to Education Code section 311(a) and for students for whom standardized assessment data is not available, school districts may use equivalent measures as determined by the local governing board.~~

~~NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310 and 311, Education Code.~~

**§ 11309. Language Acquisition Programs.**

1. LEAs shall provide language acquisition programs for English learners consistent with these regulations.
2. Whenever an LEA establishes a language acquisition program, the LEA shall confer with school personnel, including teachers and administrators with authorizations required to provide or oversee programs and services for English learners, regarding the design and content of the language acquisition program.
3. Any language acquisition program provided by an LEA shall:
4. Be designed using evidence-based research and include both Designated and Integrated ELD;
5. Be allocated sufficient resources by the LEA to be effectively implemented, including, but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
6. Within a reasonable period of time, lead to:
7. Proficiency in English, and, **~~if applicable~~when the program model includes instruction in another language**, **proficiency in that other ~~another~~** language; and
8. Achievement of the state-adopted content standards in English, and, **~~if applicable~~when the program model includes instruction in another language**, **~~another~~achievement in that other** language.
9. At **a** minimum, an LEA shall provide a program of **~~SEI~~Structured English Immersion** for English learners**, which includes Designated and Integrated ELD.**
10. An LEA may provide language acquisition programs **~~in addition to SEI~~**, including programs that integrate instruction for native speakers of English and native speakers of another language, and meet the requirements of subdivision (c).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 44253.3, and 44253.4, Education Code; 20 U.S.C. Sections 1703 and 6311.

**~~§ 11310. State Board of Education Review of Guidelines for Parental Exception Waivers.~~**

 ~~(a) Upon written request of the State Board of Education, school district governing boards shall submit any guidelines or procedures adopted pursuant to Education Code section 311 to the State Board of Education for its review.~~

 ~~(b) Any parent or guardian who applies for a waiver under Education Code section 311 may request a review of the school district's guidelines or procedures by the State Board of Education. The sole purpose of the review shall be to make a determination as to whether those guidelines or procedures comply with the parental exception waiver guidelines set forth in Section 11309.~~

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 310 and 311, Education Code.

**§ 11310. Parental Notice.**

1. An LEA shall notify parents of the language acquisition programs and **~~any~~** language programs **~~provided by~~available in** the LEA at the time and in the manner specified in Education Code sections 48980 and 48981. The notice specified in this section shall include a description of the process for parents to request a language acquisition program or language program for their child.
2. **~~The notice for~~Regarding** language acquisition programs**, the notice** shall include:
3. A description of any such programs provided, including **~~SEI~~Structured English Immersion**;
4. Identification of any language to be taught in addition to English, **~~if applicable~~when the program model includes instruction in another language**; **~~and~~**
5. The information set forth in section 11309(c)**~~.~~; and**
6. **The process to request establishment of a language acquisition program**

**not offered at the school.**

1. **~~The notice for~~** **Regarding** language programs**, the notice** shall specify the language(s) to be taught, and may include the program goals, methodology used, and evidence of the proposed program’s effectiveness.
2. Parents of pupils enrolling in the an LEA after the beginning of the academic school year shall be provided the notice described **~~in subdivision (a)~~** **above** upon enrollment. An LEA may provide notice to parents at additional times throughout the year.
3. The notice to parents pursuant to this section shall be provided as described **~~in~~** **~~subdivision (a)~~above**. Additionally, verbal notice shall be provided, upon request, as reasonably necessary to effectuate notice to the parents.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305, 306, 310, 48980, and 48981, Education Code; 20 U.S.C. sections 1703(f), 6311 and 6318.

**§ 11311. Parent Requests ~~for~~to Establish a Language Acquisition Program~~s~~.**

1. An LEA shall establish a process for schools of the LEA to receive and respond to requests from parents of pupils enrolled in the school to establish **a** language acquisition program**~~s~~** other than, or in addition to, such programs **~~provided~~available** at the school. The LEA process shall require each school to make a written record of each request, including at least the following:
2. The date of the request;
3. The names of the parent and pupil;
4. A general description of the request; and
5. The pupil’s grade level on the date of the request.
6. Each school shall maintain a written record of verbal requests that includes the information set forth **~~in subdivision (a)~~above**.
7. Each school shall assist parents in clarifying requests, as needed.
8. Each school shall retain written records of parent requests for language acquisition programs for at least three years from the date of the request.
9. A parent whose pupil is enrolled in a school for attendance in the next school year may submit a request for a language acquisition program.

 **~~(i)~~(f)** A school **~~may~~shall** consider requests **for a multilingual program model** from parents of pupils enrolled in the school who are native speakers of English when determining whether a threshold specified in subdivision **~~(g)~~(h)** is reached.

 **~~(f)~~(g)** Each school shall monitor the number of parent requests for language acquisition programs on a regular basis, and notify the LEA immediately upon reaching a threshold specified in subdivision **~~(g)~~(h)**.

 **~~(g)~~(h)** When the parents of 30 pupils or more enrolled in a school, or when the parents of 20 pupils or more in the same grade level enrolled in a school, request the same or substantially similar type of a language acquisition program, the LEA shall respond by **~~immediately~~** taking the following actions:

1. **Within 10 school days of reaching a threshold described in subdivision (h), ~~N~~n**otify the parents of pupils attending the school, the school’s teachers, **~~and~~** administrators, **and the LEA’s English learner parent advisory committee and parent advisory committee,** in writing, of the parents’ requests for a language acquisition program;
2. Identify **costs and** resources necessary to implement **~~a~~any new** language acquisition program, including but not limited to certificated teachers with the appropriate authorizations, necessary instructional materials, pertinent professional development for the proposed program, and opportunities for parent and community engagement to support the proposed program goals; and
3. Determine, within **~~90~~60** calendar days of reaching **~~the~~a** threshold described in subdivision **~~(g)~~(h)**, whether it is possible to implement the requested language acquisition program; and provide notice, in writing, to parents of pupils attending the school, the school’s teachers, and administrators, of its determination;
4. In the case of an affirmative decision to implement a language acquisition program at the school, create and publish a reasonable timeline of actions necessary to implement the language acquisition program.
5. In the case where the LEA determines it is not possible to implement a language acquisition program requested by parents, the LEA shall provide **in written form** an explanation of the reason(s) the program cannot be provided, and may offer an alternate option that can be implemented at the school.

 **~~(h)~~(i)**Each school shall follow the process set forth in subdivision **~~(f)~~(h)**, even when the LEA provides the requested language acquisition program at another school of the LEA at the time the threshold specified in subdivision **~~(g)~~(h)** is met.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 305 and 310, 44253.3, **and** 44253.4, Education Code; 20 U.S.C., Section 1703(f).

**§ 11312. Language Programs**

If an LEA provides a language program or proposes to offer a language program, the LEA shall establish a process for schools of the LEA to receive and respond to input from parents and stakeholders regarding the non-English language in which instruction is provided.

NOTE: Authority cited: Section 33031. Reference: Section 305(c), Education Code.

**§ 11316. Language of Parental Notice ~~to Parents or Guardians~~.**

All notices and other communications to parents ~~or guardians~~ required or permitted by these regulations must be provided in English and in the parents' ~~or guardians’~~ primary language to the extent required under Education Code section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section **~~313 and~~** 48985, Education Code; 20 U.S.C Section 1703(f) and 6318.

11-29-17 [California Department of Education]

## Attachment 3:ADDENDUM TO FINAL STATEMENT OF REASONS

CALIFORNIA EDUCATION FOR A GLOBAL ECONOMY (CA Ed.G.E.) INITIATIVE PROPOSED REGULATIONS

### UPDATE OF INITIAL STATEMENT OF REASONS

The revised proposed text was made available for public comment for at least 15 days from November 13, 2017, through November 28, 2017. One written comment was received during the 15-day comment period.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY NOTICE PERIOD OF NOVEMBER 13, 2017, THROUGH NOVEMBER 28, 2017.

### PUBLIC COMMENT

**Letter:** Deborah Escobedo, Senior Attorney, Racial Justice-Education, Lawyer’s Committee for Civil Rights of the San Francisco Bay Area; Cynthia Rice, Director of Litigation Advocacy and Training, California Rural Legal Assistance, Inc.; Shelly Spiegel-Coleman, Executive Director, Californians Together; Jan Gustafson-Corea, Chief Executive Officer, California Association for Bilingual Education; Barbara Flores, President, California Latino School Boards Association; Joann Lee, Directing Attorney, Legal Aid Foundation of Los Angeles; Abigail Trillin, Executive Director, Legal Services for Children.

**Proposed Sections 11301(a) and (c)** are amended to replace “as applicable” with “if such a body is required by law.” This modification is necessary to clarify that some districts are not required to establish an English learner parent advisory committee pursuant to California *Education Code* Section 52063.

### ALTERNATIVES DETERMINATION

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

### LOCAL MANDATE DETERMINATION

To the extent that the Commission on State Mandates determines that any of the requirements in these regulations exceed the requirements of or are not necessary to implement the CA Ed.G.E. Initiative and constitute a reimbursable state mandate, the state will be required to provide affected local educational agencies Proposition 98 General Fund resources to fund the required activities as noted in the Fiscal Effect on Local Government section of the Economic and Fiscal Impact Statement.

2-1-2018 [California Department of Education