

California Department of Education

Executive Office

SBE-003 (REV. 11/2017)

# California State Board of Education January 2019 Agenda Item #19

## Subject

Vision Testing: Approval of the Commencement of a 45-Day Public Comment Period for Proposed Amendments to the *California Code of Regulations,* Title 5 sections 590, 591, 594 and 596, and Adoption of Proposed Section 597.

## Type of Action

Action, Information

## Summary of the Issue(s)

California *Education Code* (*EC*) Section 49455, enacted by Assembly Bill 1840 (Chapter 803, Statutes of 2014, hereafter AB 1840) and Senate Bill 1172 (Chapter 925, Statutes of 2014, hereafter SB 1172) requires the California Department of Education (CDE) to adopt guidelines to implement provisions of these two bills, including training requirements and a method of testing for near vision. Amendments to *California Code of Regulations,* Title 5 *(*5 *CCR)* sections 590, 591, 594, and 596 and the proposed Section 597 are necessary to provide the specific guidance that is necessary to enable the CDE and school districts to implement the provisions of *EC* Section 49455.

## Recommendation

The CDE recommends the State Board of Education (SBE) take the following actions:

* Approve the Notice of Proposed Rulemaking (Notice)
* Approve the Initial Statement of Reasons (ISOR)
* Approve the proposed 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 during its review of the Notice, ISOR, and proposed regulations

*“A Guide for Vision Screening in California Public Schools,”* provided as Attachment 5, is provided for information only.

## Brief History of Key Issues

In 2014, the Legislature passed AB 1840 and SB 1172, which amended *EC* Section 49455 to require schools to appraise the near, distant, and color vision of a child using an eye chart or scientifically validated photoscreening test and to require that this appraisal occur during kindergarten or upon first enrollment and in grades two, five, and eight. Prior to this legislation, schools were required to conduct appraisals for only distance and color vision and to conduct the appraisals upon first enrollment and at least every three years until the eighth grade.

To align the relevant regulations with *EC* Section 49455, the substantive amendments are proposed:

* The amendment to the 5 *CCR* Section 590 provides guidance on contracting with agencies to provide vision tests. This amendment also requires that such agencies provide evidence of training.
* The amendment to the 5 *CCR* Section 594 changes testing criteria to align with recommendations of the International Council of Ophthalmology. Other amendments to the existing regulations reflect statutory changes since 1977.
* The addition of 5 *CCR* Section 597 addresses qualifications under which scientifically validated photoscreening tests may be performed.

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

The existing regulations were last amended in 2005 following adoption of the revisions by the SBE on March 11, 2004. Since that time, there have been changes in vision screening techniques that are not reflected in the existing regulations. *EC* Section 49452 requires local educational agencies (LEAs) to test the vision of each pupil enrolled in the district’s schools and specifies the individuals qualified to perform vision testing. *EC* Section 49455 specifies the frequency and basic components of the school vision testing program. Sections 590 through 596 in 5 *CCR* provide guidance on vision screening; however, the language in the existing regulations omits the use of scientifically validated photoscreening tests authorized under AB 1840 and SB 1172.

## Fiscal Analysis

An Economic and Fiscal Impact Statement is provided as Attachment 4.

## Attachment(s)

Attachment 1: Notice of Proposed Rulemaking (6 pages)

Attachment 2: Initial Statement of Reasons (5 pages)

Attachment 3: Proposed Regulations (4 pages)

Attachment 4: Economic and Fiscal Impact Statement (STD. 399) (5 pages)

Attachment 5: A Guide for Vision Screening in California Public Schools, provided for information only (57 pages)